

# 2007 Montana Library Laws and Rules



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# Chapter 1

## Constitution of Montana

# **Chapter 1 CONSTITUTION OF MONTANA**

## **ARTICLE VIII – REVENUE AND FINANCE**

### **Section 5. Property tax exemptions.**

- (1) The legislature may exempt from taxation:
  - (a) Property of the United States, the state, counties, cities, towns, school districts, municipal corporations, and public libraries, but any private interest in such property may be taxed separately.
  - (b) Institutions of purely public charity, hospitals and places of burial not used or held for private or corporate profit, places for actual religious worship, and property used exclusively for educational purposes.
  - (c) Any other classes of property.
- (2) The legislature may authorize creation of special improvement districts for capital improvements and the maintenance thereof. It may authorize the assessment of charges for such improvements and maintenance against tax exempt property directly benefited thereby.

## **ARTICLE X**

### **EDUCATION AND PUBLIC LANDS**

#### **Section 1. Educational goals and duties.**

- (1) It is the goal of the people to establish a system of education which will develop the full educational potential of each person. Equality of educational opportunity is guaranteed to each person of the state.
- (2) The state recognizes the distinct and unique cultural heritage of the American Indians and is committed in its educational goals to the preservation of their cultural integrity.
- (3) The legislature shall provide a basic system of free quality public elementary and secondary schools. The legislature may provide such other educational institutions, public libraries, and educational programs as it deems desirable. It shall fund and distribute in an equitable manner to the school districts the state's share of the cost of the basic elementary and secondary school system.

## **ARTICLE XIII**

### **GENERAL PROVISIONS**

#### **Section 4. Code of ethics.**

The legislature shall provide a code of ethics prohibiting conflict between public duty and private interest for members of the legislature and all state and local officers and employees.

# Chapter 2

## Montana Code

### Annotated

# Chapter 2 Montana Library Laws

## Publication and Updating of the Code

### 1-11-301. Publication and sale of Montana Code Annotated -- free distribution.

- (1) The legislative council, with the advice of the code commissioner, shall decide on the quantity, quality, style, format, and grade of all publications prior to having the code commissioner call for bids for the printing and binding and contract for their publication. The code commissioner shall follow the requirements of state law relating to contracts and bids, except as provided in this section.
- (2) The methods of sale to the public of the Montana Code Annotated and supplements or other subsequent and ancillary publications may be included as an alternative specification and bid and as a part of a contract to be let by bids by the code commissioner.
- (3) The sales price to the public of all Montana Code Annotated material must be fixed by the legislative council but may not exceed the cost price plus 25%. All revenue generated from the sale of the Montana Code Annotated or ancillary publications must be deposited in the state special revenue fund. Appropriations from the fund may be made for the use of the office and facilities of the legislative council under this chapter.
- (4) Sets of the Montana Code Annotated purchased by the state, Montana local governmental agencies that are supported by public funds, and nonprofit organizations may not exceed the cost price of the sets plus 5%.
- (5)
  - (a) One copy of the Montana Code Annotated and supplements, and other subsequent and ancillary publications except annotations, must be provided at no cost to each library designated as a depository library as defined in 22-1-211.
  - (b) The state law library in Helena must be provided with four copies of the Montana Code Annotated and supplements, including annotations and other subsequent and ancillary publications.
  - (c) The legislative council shall include in the cost price of the code the cost of providing the copies under this subsection.

[Last noted date: 2007]

## Code of Ethics

### 2-2-101. Statement of purpose.

The purpose of this part is to set forth a code of ethics prohibiting conflict between public duty and private interest as required by the constitution of Montana. This code recognizes distinctions between legislators, other officers and employees of state government, and officers and employees of local government and prescribes some standards of conduct common to all categories and some standards of conduct adapted to each category. The provisions of this part recognize that some actions are conflicts per se between public duty and private interest while other actions may or may not pose such conflicts depending upon the surrounding circumstances. [Last noted date: 1977]

### 2-2-102. Definitions.

As used in this part, the following definitions apply:

- (1) "Business" includes a corporation, partnership, sole proprietorship, trust or foundation, or any other individual or organization carrying on a business, whether or not operated for profit.
- (2) "Compensation" means any money or economic benefit conferred on or received by any person in return for services rendered or to be rendered by the person or another.
- (3)
  - (a) "Gift of substantial value" means a gift with a value of \$50 or more for an individual.
  - (b) The term does not include:
    - (i) a gift that is not used and that, within 30 days after receipt, is returned to the donor or delivered to a charitable organization or the state and that is not claimed as a charitable contribution for federal income tax purposes;

- (ii) food and beverages consumed on the occasion when participation in a charitable, civic, or community event bears a relationship to the public officer's or public employee's office or employment or when the officer or employee is in attendance in an official capacity;
  - (iii) educational material directly related to official governmental duties;
  - (iv) an award publicly presented in recognition of public service; or
  - (v) educational activity that:
    - (A) does not place or appear to place the recipient under obligation;
    - (B) clearly serves the public good; and
    - (C) is not lavish or extravagant.
- (4) "Local government" means a county, a consolidated government, an incorporated city or town, a school district, or a special district.
- (5) "Official act" or "official action" means a vote, decision, recommendation, approval, disapproval, or other action, including inaction, that involves the use of discretionary authority.
- (6) "Private interest" means an interest held by an individual that is:
  - (a) an ownership interest in a business;
  - (b) a creditor interest in an insolvent business;
  - (c) an employment or prospective employment for which negotiations have begun;
  - (d) an ownership interest in real property;
  - (e) a loan or other debtor interest; or
  - (f) a directorship or officership in a business.
- (7) "Public employee" means:
  - (a) any temporary or permanent employee of the state;
  - (b) any temporary or permanent employee of a local government;
  - (c) a member of a quasi-judicial board or commission or of a board, commission, or committee with rulemaking authority; and
  - (d) a person under contract to the state.
- (8) "Public officer" includes any state officer and any elected officer of a local government.
- (9) "Special district" means a unit of local government, authorized by law to perform a single function or a limited number of functions. The term includes but is not limited to conservation districts, water districts, weed management districts, irrigation districts, fire districts, community college districts, hospital districts, sewer districts, and transportation districts. The term also includes any district or other entity formed by interlocal agreement.
- (10)
  - (a) "State agency" includes:
    - (i) the state;
    - (ii) the legislature and its committees;
    - (iii) all executive departments, boards, commissions, committees, bureaus, and offices;
    - (iv) the university system; and
    - (v) all independent commissions and other establishments of the state government.
  - (b) The term does not include the judicial branch.
- (11) "State officer" includes all elected officers and directors of the executive branch of state government as defined in [2-15-102](#).

[Last noted date: 2001]

## **2-2-103. Public trust — public duty.**

- (1) The holding of public office or employment is a public trust, created by the confidence that the electorate reposes in the integrity of public officers, legislators, and public employees. A public officer, legislator, or public employee shall carry out the individual's duties for the benefit of the people of the state.
- (2) A public officer, legislator, or public employee whose conduct departs from the person's public duty is liable to the people of the state and is subject to the penalties provided in this part for abuse of the public's trust.
- (3) This part sets forth various rules of conduct, the transgression of any of which is a violation of public duty, and various ethical principles, the transgression of any of which must be avoided.
- (4)

- (a) The enforcement of this part for:
  - (i) state officers, legislators, and state employees is provided for in 2-2-136;
  - (ii) legislators, involving legislative acts, is provided for in 2-2-135 and for all other acts is provided for in 2-2-136;
  - (iii) local government officers and employees is provided for in 2-2-144.
- (b) Any money collected in the civil actions that is not reimbursement for the cost of the action must be deposited in the general fund of the unit of government.

**[Last noted date: 2001]**

## **2-2-104. Rules of conduct for public officers, legislators, and public employees.**

- (1) Proof of commission of any act enumerated in this section is proof that the actor has breached the actor's public duty. A public officer, legislator, or public employee may not:
  - (a) disclose or use confidential information acquired in the course of official duties in order to further substantially the individual's personal economic interests; or
  - (b) accept a gift of substantial value or a substantial economic benefit tantamount to a gift:
    - (i) that would tend improperly to influence a reasonable person in the person's position to depart from the faithful and impartial discharge of the person's public duties; or
    - (ii) that the person knows or that a reasonable person in that position should know under the circumstances is primarily for the purpose of rewarding the person for official action taken.
- (2) An economic benefit tantamount to a gift includes without limitation a loan at a rate of interest substantially lower than the commercial rate then currently prevalent for similar loans and compensation received for private services rendered at a rate substantially exceeding the fair market value of the services. Campaign contributions reported as required by statute are not gifts or economic benefits tantamount to gifts.
- (3)
  - (a) Except as provided in subsection (3)(b), a public officer, legislator, or public employee may not receive salaries from two separate public employment positions that overlap for the hours being compensated, unless:
    - (i) the public officer, legislator, or public employee reimburses the public entity from which the employee is absent for the salary paid for performing the function from which the officer, legislator, or employee is absent; or
    - (ii) the public officer's, legislator's, or public employee's salary from one employer is reduced by the amount of salary received from the other public employer in order to avoid duplicate compensation for the overlapping hours.
  - (b) Subsection (3)(a) does not prohibit:
    - (i) a public officer, legislator, or public employee from receiving income from the use of accrued leave or compensatory time during the period of overlapping employment; or
    - (ii) a public school teacher from receiving payment from a college or university for the supervision of student teachers who are enrolled in a teacher education program at the college or university if the supervision is performed concurrently with the school teacher's duties for a public school district.
  - (c) In order to determine compliance with this subsection (3), a public officer, legislator, or public employee subject to this subsection (3) shall disclose the amounts received from the two separate public employment positions to the commissioner of political practices.

**[Last noted date: 1997]**

## **2-2-105. Ethical requirements for public officers and public employees.**

- (1) The requirements in this section are intended as rules of conduct, and violations constitute a breach of the public trust and public duty of office or employment in state or local government.
- (2) Except as provided in subsection (4), a public officer or public employee may not acquire an interest in any business or undertaking that the officer or employee has reason to believe may be directly and substantially affected to its economic benefit by official action to be taken by the officer's or employee's agency.

- (3) A public officer or public employee may not, within 12 months following the voluntary termination of office or employment, obtain employment in which the officer or employee will take direct advantage, unavailable to others, of matters with which the officer or employee was directly involved during a term of office or during employment. These matters are rules, other than rules of general application, that the officer or employee actively helped to formulate and applications, claims, or contested cases in the consideration of which the officer or employee was an active participant.
- (4) When a public employee who is a member of a quasi-judicial board or commission or of a board, commission, or committee with rulemaking authority is required to take official action on a matter as to which the public employee has a conflict created by a personal or private interest that would directly give rise to an appearance of impropriety as to the public employee's influence, benefit, or detriment in regard to the matter, the public employee shall disclose the interest creating the conflict prior to participating in the official action.
- (5) A public officer or public employee may not perform an official act directly and substantially affecting a business or other undertaking to its economic detriment when the officer or employee has a substantial personal interest in a competing firm or undertaking.

[Last noted date: 1995]

## Open Meetings

### 2-3-201. Legislative intent — liberal construction.

The legislature finds and declares that public boards, commissions, councils, and other public agencies in this state exist to aid in the conduct of the peoples' business. It is the intent of this part that actions and deliberations of all public agencies shall be conducted openly. The people of the state do not wish to abdicate their sovereignty to the agencies which serve them. Toward these ends, the provisions of the part shall be liberally construed.

[Last noted date: 1963]

### 2-3-202. Meeting defined.

As used in this part, "meeting" means the convening of a quorum of the constituent membership of a public agency or association described in [2-3-203](#), whether corporal or by means of electronic equipment, to hear, discuss, or act upon a matter over which the agency has supervision, control, jurisdiction, or advisory power.

[Last noted date: 1987]

### 2-3-203. Meetings of public agencies and certain associations of public agencies to be open to public -- exceptions.

- (1) All meetings of public or governmental bodies, boards, bureaus, commissions, agencies of the state, or any political subdivision of the state or organizations or agencies supported in whole or in part by public funds or expending public funds, including the supreme court, must be open to the public.
- (2) All meetings of associations that are composed of public or governmental bodies referred to in subsection (1) and that regulate the rights, duties, or privileges of any individual must be open to the public.
- (3) The presiding officer of any meeting may close the meeting during the time the discussion relates to a matter of individual privacy and then if and only if the presiding officer determines that the demands of individual privacy clearly exceed the merits of public disclosure. The right of individual privacy may be waived by the individual about whom the discussion pertains and, in that event, the meeting must be open.
- (4)
  - (a) Except as provided in subsection (4)(b), a meeting may be closed to discuss a strategy to be followed with respect to litigation when an open meeting would have a detrimental effect on the litigating position of the public agency.
  - (b) A meeting may not be closed to discuss strategy to be followed in litigation in which the only parties are public bodies or associations described in subsections (1) and (2).

- (5) The supreme court may close a meeting that involves judicial deliberations in an adversarial proceeding.
- (6) Any committee or subcommittee appointed by a public body or an association described in subsection (2) for the purpose of conducting business that is within the jurisdiction of that agency is subject to the requirements of this section.

[Last noted date 2005]

## Adoption and Publication of Rules

### 2-4-313. Distribution, costs, and maintenance.

- (1) The secretary of state shall distribute copies of the ARM and supplements or revisions to the ARM to the following in an electronic format unless a hard copy is requested:
  - (a) attorney general, one copy;
  - (b) clerk of United States district court for the district of Montana, one copy;
  - (c) clerk of United States court of appeals for the ninth circuit, one copy;
  - (d) county commissioners or governing body of each county of this state, for use of county officials and the public, at least one but not more than two copies, which may be maintained in a public library in the county seat or in the county offices as the county commissioners or governing body of the county may determine;
  - (e) state law library, one copy;
  - (f) state historical society, one copy;
  - (g) each unit of the Montana university system, one copy;
  - (h) law library of the university of Montana-Missoula, one copy;
  - (i) legislative services division, two copies;
  - (j) library of congress, one copy;
  - (k) state library, one copy.
- (2) The secretary of state, each county in the state, and the librarians for the state law library and the university of Montana-Missoula law library shall maintain a complete, current set of the ARM, including supplements or revisions to the ARM. The designated persons shall also maintain the register issues published during the preceding 2 years. The secretary of state shall maintain a permanent set of the registers.
- (3) The secretary of state shall make copies of and subscriptions to the ARM and supplements or revisions to the ARM and the register available to any person for a fee set in accordance with subsection (5). Fees are not refundable.
- (4) The secretary of state may charge agencies a filing fee for all material to be published in the ARM or the register.
- (5) The secretary of state shall set and deposit the fees authorized in this section in accordance with [2-15-405](#).

[Last noted date: 2007]

## Public Records Generally

### 2-6-101. Definitions.

- (1) Writings are of two kinds:
  - (a) public; and
  - (b) private.
- (2) Public writings are:
  - (a) the written acts or records of the acts of the sovereign authority, of official bodies and tribunals, and of public officers, legislative, judicial, and executive, whether of this state, of the United States, of a sister state, or of a foreign country, except records that are constitutionally protected from disclosure;
  - (b) public records, kept in this state, of private writings, including electronic mail, except as provided in [22-1-1103](#) and [22-3-807](#) and except for records that are constitutionally protected from disclosure.
- (3) Public writings are divided into four classes:
  - (a) laws;
  - (b) judicial records;



- (c) other official documents;
- (d) public records, kept in this state, of private writings, including electronic mail.
- (4) All other writings are private.

[Last noted date: 2001]

## **2-6-102. Citizens entitled to inspect and copy public writings.**

- (1) Every citizen has a right to inspect and take a copy of any public writings of this state, except as provided in [22-1-1103](#), [22-3-807](#), or subsection (3) of this section and as otherwise expressly provided by statute.
- (2) Every public officer having the custody of a public writing that a citizen has a right to inspect is bound to give the citizen on demand a certified copy of it, on payment of the legal fees for the copy, and the copy is admissible as evidence in like cases and with like effect as the original writing. The certified copy provision of this subsection does not apply to the public record of electronic mail provided in an electronic format.
- (3) Records and materials that are constitutionally protected from disclosure are not subject to the provisions of this section. Information that is constitutionally protected from disclosure is information in which there is an individual privacy interest that clearly exceeds the merits of public disclosure, including legitimate trade secrets, as defined in [30-14-402](#), and matters related to individual or public safety.
- (4) A public officer may withhold from public scrutiny information relating to individual privacy or individual or public safety or security of public facilities, including jails, correctional facilities, private correctional facilities, and prisons, if release of the information may jeopardize the safety of facility personnel, the public, or inmates of a facility. Security features that may be protected under this section include but are not limited to architectural floor plans, blueprints, designs, drawings, building materials, alarms system plans, surveillance techniques, and facility staffing plans, including staff numbers and locations. A public officer may not withhold from public scrutiny any more information than is required to protect an individual privacy interest or safety or security interest.

[Last noted date: 2001]

## **2-6-104. Records of officers open to public inspection.**

Except as provided in [27-18-111](#) and [42-6-101](#), the public records and other matters, except records that are constitutionally protected from disclosure, in the office of any officer are at all times during office hours open to the inspection of any person.

[Last noted date 1999]

## **2-6-109. Prohibition on distribution or sale of mailing lists -- exceptions -- penalty.**

- (1) Except as provided in subsections (3) through (9), in order to protect the privacy of those who deal with state and local government:
  - (a) an agency may not distribute or sell for use as a mailing list any list of persons without first securing the permission of those on the list; and
  - (b) a list of persons prepared by the agency may not be used as a mailing list except by the agency or another agency without first securing the permission of those on the list.
- (2) As used in this section, "agency" means any board, bureau, commission, department, division, authority, or officer of the state or a local government.
- (3) This section does not prevent an individual from compiling a mailing list by examination of records that are otherwise open to public inspection.
- (4) This section does not apply to the lists of registered electors and the new voter lists provided for in [13-2-115](#), to lists of the names of employees governed by Title 39, chapter 31, to lists of persons holding driver's licenses or Montana identification cards provided for under [61-5-127](#), or to lists of persons holding professional or occupational licenses governed by Title 23, chapter 3; Title 37, chapters 1 through 4, 6 through 29, 31, 34, 35, 40, 47, 48, 50, 51, 53, 54, 60, 65 through 69, 72, 73, and 76; and Title 50, chapters 39, 72, 74, and 76.
- (5) This section does not prevent an agency from providing a list to persons providing prelicensing or continuing educational courses subject to state law or subject to Title 33, chapter 17.

- (6) This section does not apply to the right of access by Montana law enforcement agencies.
- (7) This section does not apply to a corporate information list developed by the secretary of state containing the name, address, registered agent, officers, and directors of business, nonprofit, religious, professional, and close corporations authorized to do business in this state.
- (8) This section does not apply to the use by the public employees' retirement board of a mailing list of board-administered retirement system participants to send materials on behalf of a retiree organization formed for board-administered retirement system participants and with tax-exempt status under section 501(c)(4) of the Internal Revenue Code, as amended, for a fee determined by rules of the board, provided that the mailing list is not released to the organization.
- (9) This section does not apply to a public school providing lists of graduating students to representatives of the armed forces of the United States or to the national guard for the purposes of recruitment.
- (10) A person violating the provisions of subsection (1)(b) is guilty of a misdemeanor.

[Last noted date: 2007]

## **2-6-110. Electronic information and nonprint records -- public access -- fees.**

- (1)
  - (a) Except as provided by law, each person is entitled to a copy of public information compiled, created, or otherwise in the custody of public agencies that is in electronic format or other nonprint media, including but not limited to videotapes, photographs, microfilm, film, or computer disk, subject to the same restrictions applicable to the information in printed form. All restrictions relating to confidentiality, privacy, business secrets, and copyright are applicable to the electronic or nonprint information.
  - (b) The provisions of subsection (1)(a) do not apply to collections of the Montana historical society established pursuant to [22-3-101](#).
- (2) Except as provided by law and subject to subsection (3), an agency may charge a fee, not to exceed:
  - (a) the agency's actual cost of purchasing the electronic media used for transferring data, if the person requesting the information does not provide the media;
  - (b) expenses incurred by the agency as a result of mainframe and midtier processing charges;
  - (c) expenses incurred by the agency for providing online computer access to the person requesting access;
  - (d) other out-of-pocket expenses directly associated with the request for information, including the retrieval or production of electronic mail; and
  - (e) the hourly market rate for an administrative assistant in pay band 3 of the broadband pay plan, as provided for in [2-18-301](#), in the current fiscal year for each hour, or fraction of an hour, after one-half hour of copying service has been provided.
- (3)
  - (a) In addition to the allowable fees in subsection (2), the department of revenue may charge an additional fee as reimbursement for the cost of developing and maintaining the property valuation and assessment system database from which the information is requested. The fee must be charged to persons, federal agencies, state agencies, and other entities requesting the database or any part of the database from any department property valuation and assessment system. The fee may not be charged to the governor's office of budget and program planning, the state tax appeal board, or any legislative agency or committee.
  - (b) The department of revenue may not charge a fee for information provided from any department property valuation and assessment system database to a local taxing jurisdiction for use in taxation and other governmental functions or to an individual taxpayer concerning the taxpayer's property.
  - (c) All fees received by the department of revenue under subsection (2) and this subsection (3) must be deposited in a state special revenue fund as provided in [15-1-521](#).
  - (d) Fees charged by the secretary of state pursuant to this section must be set and deposited in accordance with [2-15-405](#).
- (4) For the purposes of this section, the term "agency" has the meaning provided in [2-3-102](#) but includes legislative, judicial, and state military agencies.

- (5) An agency may not charge more than the amount provided under subsection (2) for providing a copy of an existing nonprint record.
- (6) An agency shall ensure that a copy of information provided to a requester is of a quality that reflects the condition of the original if requested by the requester.
- (7) This section does not authorize the release of electronic security codes giving access to private information.

[Last noted date: 2007]

## **[Government Structure and Administration] General Provisions**

### **2-15-108. Gender and racial balance — report to legislature.**

- (1) As vacancies occur and appointments are made, all appointing authorities of all appointive boards, commissions, committees, and councils of state government shall take positive action to attain gender balance and proportional representation of minorities resident in Montana to the greatest extent possible.
- (2) Pursuant to subsection (1), the secretary of state shall publish in the Montana Administrative Register on a monthly basis the recent appointments made by the executive branch and the upcoming vacancies on executive boards and commissions.
- (3) The governor shall report to the legislature, as provided in [5-11-210](#), on the progress made toward achieving the goals set forth in this section.

[Last noted date: 1993]

### **2-15-122. Creation of advisory councils.**

- (1)
  - (a) A department head or the governor may create advisory councils.
  - (b) An agency or an official of the executive branch of state government other than a department head or the governor, including the superintendents of the state's institutions and the presidents of the units of the state's university system, may also create advisory councils but only if federal law or regulation requires that the official or agency create the advisory council as a condition to the receipt of federal funds.
  - (c) The board of public education, the board of regents of higher education, the state board of education, the attorney general, the state auditor, the secretary of state, and the superintendent of public instruction may create advisory councils, which shall serve at their pleasure, without the approval of the governor. The creating authority shall file a record of each council created by it in the office of the governor and the office of the secretary of state in accordance with subsection (9).
- (2) Each advisory council created under this section must be known as the "... advisory council".
- (3) The creating authority shall:
  - (a) prescribe the composition and advisory functions of each advisory council created;
  - (b) appoint its members, who shall serve at the pleasure of the creating authority; and
  - (c) specify a date when the existence of each advisory council ends.
- (4) Advisory councils may be created only for the purpose of acting in an advisory capacity, as defined in [2-15-102](#).
- (5)
  - (a) an advisory council member is a full-time salaried officer or employee of this state or of any political subdivision of this state, the member is entitled to be paid in an amount to be determined by the department head, not to exceed \$50 for each day in which the member is actually and necessarily engaged in the performance of council duties and to be reimbursed for travel expenses, as provided for in [2-18-501](#) through [2-18-503](#), incurred while in the performance of council duties. The maximum daily pay rate must be adjusted for inflation annually using the formula provided in [15-6-134\(2\)\(b\)\(ii\)](#) and (2)(b)(iii), except that the base income level and appropriate dollar amount must be \$50 a day.
  - (b) Members who are full-time salaried officers or employees of this state or of any political subdivision of this state are not entitled to be compensated for their service as members but are entitled to be reimbursed for travel expenses, as provided for in [2-18-501](#) through [2-18-503](#).

- (6) Unless otherwise specified by the creating authority, at its first meeting in each year, an advisory council shall elect a presiding officer and other officers that it considers necessary.
- (7) Unless otherwise specified by the creating authority, an advisory council shall meet at least annually and shall also meet on the call of the creating authority or the governor and may meet at other times on the call of the presiding officer or a majority of its members. An advisory council may not meet outside the city of Helena without the express prior authorization of the creating authority.
- (8) majority of the membership of an advisory council constitutes a quorum to do business.
- (9) Except as provided in subsection (1)(c), an advisory council may not be created or appointed by a department head or any other official without the approval of the governor. In order for the creation or approval of the creation of an advisory council to be effective, the governor shall file in the governor's office and in the office of the secretary of state a record of the council created showing:
  - (a) the council's name, in accordance with subsection (2);
  - (b) the council's composition;
  - (c) the appointed members, including names and addresses;
  - (d) the council's purpose; and
  - (e) the council's term of existence, in accordance with subsection (10).
- (10) An advisory council may not be created to remain in existence longer than 2 years after the date of its creation or beyond the period required to receive federal or private funds, whichever occurs later, unless extended by the appointing authority in the manner set forth in subsection (1). If the existence of an advisory council is extended, the appointing authority shall specify a new date, not more than 2 years later, when the existence of the advisory council ends and file a record of the order in the office of the governor and the office of the secretary of state. The existence of any advisory council may be extended as many times as necessary.

[Last noted date: 2007]

## Education

### 2-15-1511. Agencies allocated to state board of education.

The state historical society, the Montana arts council, and the state library commission are allocated to the state board of education for purposes of planning and coordination. Budget requests to the state for these agencies shall be included with the budget requests of the state board of education; however, the governance, management, and control of the respective agencies shall be vested respectively in the board of trustees of the state historical society, the Montana arts council, and the state library commission.

[Last noted date:1974]

### 2-15-1514. State library commission — natural resource data system advisory committee.

- (1)
  - (a) There is a state library commission created in Title 22, chapter 1.
  - (b) The composition, method of appointment, terms of office, compensation, reimbursement, and qualifications of commission members are as prescribed by law.
- (2)
  - (a) There is a natural resource data system advisory committee consisting of an employee of the legislative services division, of the department of administration, of the state library, and of each principal data source agency, appointed by the head of the respective state agency, and by the board of regents of higher education for the Montana university system.
  - (b) The state library shall provide staff support to the committee, within the limits of the library's available resources.

[Last noted date: 2001]

## **2-15-1523. Ground water assessment steering committee.**

- (1) There is a ground water assessment steering committee consisting of an employee of each of the following state agencies that have responsibility for ground water protection, management, or information. The member must be appointed by the head of the respective state agency:
  - (a) the department of natural resources and conservation;
  - (b) the department of environmental quality;
  - (c) the department of agriculture; and
  - (d) the Montana state library, natural resource information system.
- (2) The ground water assessment steering committee may include representatives of the following agencies and units of government with expertise or management responsibility related to ground water and representatives of the organizations and groups specified in subsection (2)(h), who shall serve as ex officio members:
  - (a) the legislative services division;
  - (b) the board of oil and gas conservation;
  - (c) the Montana bureau of mines and geology;
  - (d) a unit of the university system, other than the Montana bureau of mines and geology, appointed by the board of regents of higher education for the Montana university system;
  - (e) a county government, appointed by an organization of Montana counties;
  - (f) a city, town, or city-county government, appointed by an organization of Montana cities and towns;
  - (g) each principal federal agency that has responsibility for ground water protection, management, or research, appointed by the Montana head of the respective federal agency; and
  - (h) one representative of each of the following, appointed by the governor:
    - (i) agricultural water users;
    - (ii) industrial water users; and
    - (iii) a conservation or ecological protection organization.
- (3) The ground water assessment steering committee shall elect a presiding officer from its voting members.
- (4) The Montana bureau of mines and geology shall provide staff support to the committee.

**[Last noted date: 1995]**

## **Communication Systems**

### **2-17-532. Establishment.**

- (1) The department shall establish and maintain appropriate electronic access systems for state agencies to use to provide direct electronic access to information and services by citizens, businesses, and other government entities. State agencies shall establish electronic access systems that meet minimum technical standards established by the department. Agencies involved in communicating information or providing services to the public shall use these systems to provide appropriate information to the public, including but not limited to:
  - (a) descriptions of agency functions, including contact information;
  - (b) agency program services provided to citizens, businesses, and other government entities;
  - (c) environmental assessments;
  - (d) rulemaking notices;
  - (e) board vacancy notices as required by [2-15-201](#);
  - (f) agency reports mandated by statute;
  - (g) parks reports required by [23-1-110](#);
  - (h) requests for bids or proposals; and
  - (i) public meeting notices and agendas.
- (2) The purpose of electronic access systems is to encourage the practice of providing for direct citizen, business, and other government entity access to state computerized information and services.

**[Last noted date: 2001]**

## **2-17-533. Responsibilities.**

- (1) The department shall:
  - (a) establish policies, standards, and procedures for the electronic access systems;
  - (b) establish appropriate services to support state agencies' use of the electronic access systems; and
  - (c) develop user-friendly systems for entities regularly interacting with state government, including but not limited to citizens, businesses, and other government entities, and promote the systems' use to reduce copying and mailing costs for state government and as a means to obtain information and services faster and in a more cost-effective manner.
- (2) The department shall provide security to protect the integrity of its electronic access systems.
- (3) Each department is responsible for ensuring the integrity and appropriateness of the information that it places in the electronic access systems.
- (4) The department shall provide for an equitable method for recovering the cost of operating the electronic access systems that the department provides.

[Last noted date: 2001]

## **Form and Reporting of [Supreme Court] Decisions**

### **3-2-604. Distribution of reports.**

- (1) On the publication of each volume of the reports, the supreme court shall purchase and distribute:
  - (a) each volume to each justice of the supreme court and to each district court judge; and
  - (b) four copies of each volume to the law library of the state of Montana.
- (2) All reports distributed pursuant to subsection (1) are for the use of the office and must be turned over to the successor in office.

[Last noted date: 1997]

## **Dissemination of Laws and Proceedings**

### **5-11-203. Distribution of session laws — inspection of journals.**

- (1) Immediately after the session laws are published, the legislative services division shall distribute them.
- (2) The legislative services division shall make the house and senate journals available for inspection or copying by the public as provided in Title 2, chapter 6, part 1. The legislative services division may publish the journals in an electronic format.
- (3) The following entities may receive the number of copies of session laws listed at no cost:
  - (a) to the library of congress, eight copies;
  - (b) to the state library, two copies;
  - (c) to the state historical library, two copies;
  - (d) to the state law librarian, four copies for the use of the library and additional copies as may be required for exchange with libraries and institutions maintained by other states and territories and public libraries;
  - (e) to the library of each custodial institution, one copy;
  - (f) to each Montana member of congress, each United States district judge in Montana, each of the judges of the state supreme and district courts, and each of the state officers as defined in [2-2-102](#), one copy;
  - (g) to any agency, board, commission, or office of the state, other than a state officer, and to any other subdivision of the state upon request and approval by the legislative council, one copy;
  - (h) to each member of the legislature, the secretary of the senate, and the chief clerk of the house of representatives from the session at which the laws were adopted, one copy;
  - (i) to each of the community college districts of the state, as defined in [20-15-101](#), and each unit of the Montana university system, one copy;
  - (j) to each county clerk, one copy for the use of the county; and
  - (k) to each county attorney and to each clerk of a district court, one copy.



[Last noted date: 1997]

## Legislative Council and Publication of Laws

### 5-11-212. Fees for proceedings.

- (1) A complete set of the proceedings of a regular or special session of the legislature may be purchased from the legislative services division for the amount prescribed by the legislative council. Upon receipt of payment, the executive director of the legislative services division shall supply the purchaser with a complete set of the proceedings.
- (2) A purchaser who requests that a set of the proceedings be mailed shall pay an additional fee as prescribed by the council for each complete set that is mailed.
- (3) Single copies of bills, resolutions, or amendments to bills or resolutions may be purchased from the legislative services division for a price varying with the length of the document as prescribed by the legislative council.
- (4) Single copies of status sheets or status of proceedings may be purchased from the legislative services division for a price per copy as prescribed by the legislative council. A person may subscribe to receive daily copies of the status sheets or status of proceedings by mail for a fee set by the legislative council to cover the costs of the service.
- (5) The executive director of the legislative services division shall account for all funds collected under this section and shall transmit the funds to the treasurer of the state of Montana, who shall credit them to the general fund.

[Last noted date: 1997]

### 5-11-213. Exclusions.

Each general circulation newspaper published in Montana and each radio or television station broadcasting in Montana that has registered with the executive director of the legislative services division is exempt from [5-11-212](#) and shall receive one complete set of the proceedings of the legislature for the ensuing biennium without charge.

[Last noted date: 1997]

### 5-11-214. Exemptions from fees.

All elected state officials, state department heads, the state law library, and county clerk and recorders shall be exempted from [5-11-212](#).

[Last noted date: 1974]

## Municipal Commission Government

### 7-3-4252. Powers of council.

The council has and shall exercise all executive, legislative, and judicial powers and duties possessed and exercised by the mayor, city council, board of public works, park commissioners, board of police and fire commissioners, board of waterworks trustees, board of library trustees, attorney, treasurer, auditor, city engineer, and other executive and administrative offices in cities organized under the general municipal incorporation laws.

[Last noted date: 1993]

### 7-3-4253. Department structure and operation.

- (1) The executive and administrative powers, authority, and duties in municipal commission government cities must be distributed into and among departments as follows:
  - (a) in cities having a mayor and two council members, into three departments:
    - (i) a department of accounts, finance, and public property;
    - (ii) a department of public safety and charity; and
    - (iii) a department of streets, public improvements, and parks;
  - (b) in cities having a mayor and four council members, into five departments:

- (i) a department of public affairs;
  - (ii) a department of accounts and finance;
  - (iii) a department of public safety and charity;
  - (iv) a department of street and public improvements; and
  - (v) a department of parks and public property.
- (2) The council shall determine the powers and duties to be performed by each department of the city, shall prescribe the powers and duties of officers and employees, may assign particular officers and employees to one or more of the departments, may require an officer or employee to perform duties in two or more departments, and may make rules necessary or proper for the efficient and economical conduct of the business of the city.

[Last noted date: 2007]

### **7-3-4254. Selection and supervision of officers and employees.**

- (1) In cities having a mayor and two council members, the mayor is the superintendent of the department of accounts, finance, and public property, and in cities having a mayor and four city council members, the mayor is the superintendent of the department of public affairs. The mayor has general supervision over all departments of the city and over all matters connected with the city, and the council shall, at its first regular meeting after the election of its members, designate by majority vote one council member to be superintendent over each department of the city, but that designation may be changed whenever it appears that the public service would be benefited.
- (2) The council shall, at its first regular meeting after the election of its members or as soon thereafter as practicable, elect by majority vote the following officers: a city clerk, a city treasurer, a city attorney, a city auditor, a city engineer, a city physician, a chief of the fire department, a chief of the police department, a commissioner of weights and measures, a street commissioner, library trustees, cemetery trustees, and other officers and assistants as provided for by ordinance and that may be necessary to the proper and efficient conduct of the affairs of the city. The council may by ordinance consolidate any of the enumerated offices, may require any officer elected by the council to perform the duties of any other officer, and shall appoint a city judge with the authority conferred by existing laws. The tenure in office of a chief of the fire department and other officers of the fire department is governed by the provisions of [7-33-4106](#) and [7-33-4122](#) through [7-33-4124](#). Any officer or assistant elected or appointed by the council may be removed from office at any time by a majority vote of the members of the council, except as otherwise provided in this part.
- (3) The council may create, fill, and discontinue offices and employment other than those prescribed in this section, according to their judgment of the needs of the city, by majority vote of all the members to remove any officer or employee, except as otherwise provided for in this part. The council may by resolution or otherwise prescribe, limit, or change the compensation of officers or employees.

[Last noted date: 2007]

### **7-3-4266. Report of proceedings and financial statement.**

The council shall monthly print in pamphlet form a detailed itemized statement of all of the receipts and expenses of the city and a summary of its proceedings during the preceding month and furnish printed copies of the statement to the state library, the city library, the daily newspaper of the city, and persons who apply for the statement at the office of the city clerk.

[Last noted date: 1974]

## **Municipal Commission-Manager Government**

### **7-3-4463. Department of public welfare.**

- (1) Subject to the supervision and control of the city manager in all matters, the director of public welfare shall manage all charitable, correctional, and reformatory institutions and agencies belonging to the municipality and the use of all recreational facilities of the municipality, including libraries, parks, and playgrounds. The director has charge of the inspection and



supervision of public amusements and entertainments. The director shall enforce all laws, ordinances, and regulations relating to:

- (a) the preservation and promotion of the public health;
  - (b) the prevention and restriction of disease;
  - (c) the prevention, abatement, and suppression of nuisances; and
  - (d) the sanitary inspection and supervision of the production, transportation, storage, and sale of foodstuffs.
- (2) The director shall cause a complete and accurate system of vital statistics to be kept. In time of epidemic or threatened epidemic, the director may enforce quarantine regulations that are appropriate to the emergency. The director of public welfare shall provide for the study of and research into causes of poverty, delinquency, crime, disease, and other social problems in the community and shall, by means of lectures and exhibits, promote the education and understanding of the community in those matters that affect the public welfare.
- (3) The health officer of the municipality is under the direction and control of the director of public welfare, shall enforce all ordinances and laws relating to health, and shall perform all duties and have all powers provided by general law relative to the public health to be exercised in municipalities by health officers. Regulations affecting the public health in addition to those established by general law and for the violation of which penalties are imposed must be enacted by the commission and enforced as provided in this part.

[Last noted date: 2007]

## **Local Government Budget Act**

### **7-6-4001. Short title -- applicability.**

- (1) This part may be referred to as the "Local Government Budget Act".
- (2) This part applies to all local governments.

[Last noted date: 2001]

### **7-6-4002. Definitions.**

As used in this part, unless the context requires otherwise, the following definitions apply:

- (1) "Governing body" means the elected body responsible for the administration of a local government.
- (2) "Local government" has the meaning provided in [7-6-602](#).
- (3) "Municipality" means an incorporated city or town.
- (4) "Working capital" means the current assets of a fund minus the current liabilities and designated reserves of a fund.

[Last noted date: 2001]

### **7-6-4003. Budget and levies supplied to department of administration.**

- (1) A local government shall submit a complete copy of the final budget together with a statement of tax levies to the department of administration by the later of October 1 or 60 days after receipt of taxable values from the department of revenue. The county clerk and recorder shall make this submission for counties.
- (2) The local government shall use standard forms prescribed by the department of administration or may use an alternative budget format acceptable to the department of administration.

[Last noted date: 2001]

### **7-6-4004. Budget fund structure.**

Local government budgets must conform to the fund structure prescribed by the department of administration.

[Last noted date: 2001]

#### **7-6-4005. Expenditures limited to appropriations.**

- (1) Local government officials may not make a disbursement or an expenditure or incur an obligation in excess of the total appropriations for a fund.
- (2) A local government official who violates subsection (1) is liable for the amount of the excess disbursement, expenditure, or obligation personally.
- (3) The subsequent claims approval process may not be considered as the making of a disbursement or an expenditure or as incurring an obligation and does not otherwise limit or mitigate the local government official's personal liability.

[Last noted date: 2005]

#### **7-6-4006. Appropriation power -- requirements.**

- (1) A governing body may appropriate money and provide for the payment of the debts and expenses of the local government.
- (2) Money may not be disbursed, expended, or obligated except pursuant to an appropriation for which working capital is or will be available.
- (3) Appropriations may be adjusted according to procedures authorized by the governing body for:
  - (a) debt service funds for obligations related to debt approved by the governing body;
  - (b) trust funds for obligations authorized by trust covenants;
  - (c) any fund for federal, state, local, or private grants and shared revenue accepted and approved by the governing body;
  - (d) any fund for special assessments approved by the governing body;
  - (e) the proceeds from the sale of land;
  - (f) any fund for gifts or donations; and
  - (g) money borrowed during the fiscal year.
- (4) governing body may amend the budget during the fiscal year by conducting public hearings at regularly scheduled meetings. Budget amendments providing for additional appropriations must identify the fund reserves, unanticipated revenue, or previously unbudgeted revenue that will fund the appropriations.

[Last noted date: 2001]

#### **7-6-4011. Use of bond proceeds and borrowed money.**

- (1) Except as otherwise provided by law, money borrowed by a local government may be used only for the purpose for which the money was borrowed. Unless restricted by law, surplus borrowed money may be used to redeem the debt for which the money was borrowed.
- (2) authorization of bonds by the electors or the governing body constitutes the appropriation of the bond proceeds for the purpose for which the bonds are authorized.

[Last noted date: 2001]

#### **7-6-4012. Fee based budgets -- adjustable appropriation**

- (1) In its final budget resolution, the governing body may authorize adjustments to appropriations funded by fees throughout the budget period. Adjustable appropriations are:
  - (a) proprietary fund appropriations; or
  - (b) other appropriations specifically identified in the local government's final budget resolution as fee-based appropriations.
- (2) Adjustments of fee-based appropriations must be:
  - (a) based upon the cost of providing the services supported by the fee; and
  - (b) fully funded by the related fees for services, fund reserves, or nonfee revenue such as interest.

[Last noted date: 2001]

#### **7-6-4013. Fees for services -- hearing and resolution.**

- (1) If a local government has the authority to regulate, establish, and change fees, rates, charges, and classifications that are imposed for services to its inhabitants and other persons served by

- the local government, the fees, rates, charges, and classifications must be reasonable and related to the cost of providing the service.
- (2) Charges for services must comply with Title 17, chapter 2, part 3, and other applicable statutes.
  - (3) In order to establish or change fees, rates, charges, or classifications imposed for services, the governing body shall order a hearing to be held as provided in [7-1-4131](#), unless a special hearing process is provided by law. Municipal utility rate hearings must be held as provided in [69-7-112](#).
  - (4) Notice of a hearing must be published as provided in [7-1-2121](#) for a county and as provided in [7-1-4127](#) for a municipality.
  - (5) After a hearing, the fees, rates, charges, or classifications must be established by resolution of the governing body.

[Last noted date: 2001]

#### **7-6-4014. Restriction on tax-financed expenditures if voter approval required.**

If an expenditure is to be financed from a tax levy required to be authorized and approved at an election, the expenditure may not be made or an obligation may not be incurred against the expenditure until the tax levy is authorized and approved.

[Last noted date: 2001]

#### **7-6-4015. Payments for judgments.**

- (1) Judgments against a local government that are not covered by insurance may be paid:
  - (a) from the general fund; or
  - (b) from the fund or funds supporting the local government operation that incurred the judgment.
- (2) Judgments that are to be paid from the general fund:
  - (a) must be paid in the current fiscal year if there is sufficient money in the general fund to pay both the judgment and the general fund appropriations for the current fiscal year; or
  - (b) must be paid from additional tax levies made in each of the next 3 years if general fund money is insufficient to pay the judgment in the current fiscal year.

[Last noted date: 2001]

#### **7-6-4020. Preliminary annual operating budget.**

- (1) A preliminary annual operating budget must be prepared for the local government.
- (2) This part does not provide for the consolidation or reassignment, but does not prohibit delegation by mutual agreement, of any duties of elected county officials.
- (3)
  - (a) Before June 1 of each year, the county clerk and recorder shall notify the county commission and each board, office, or official that they are required to file preliminary budget proposals for their component of the total county budget.
  - (b) Component budgets must be submitted to the clerk and recorder before June 10th or on a date designated by the county commission and must be submitted on forms provided by the county clerk and recorder.
  - (c) The county clerk and recorder shall prepare and submit the county's preliminary annual operating budget.
  - (d) Component budget responsibilities as provided in this subsection (3) include but are not limited to the following:
    - (i) The county surveyor or any special engineer shall compute road and bridge component budgets and submit them to the county commission.
    - (ii) The county commission shall submit road and bridge component budgets.
    - (iii) The county treasurer shall submit debt service component budgets.
    - (iv) The county commission shall submit component budgets for construction or improvements to be made from new general obligation debt.
- (4) The preliminary annual operating budget for each fund must include, at a minimum:
  - (a) a listing of all revenue and other resources for the prior budget year, current budget year, and proposed budget year;

- (b) a listing of all expenditures for the prior budget year, the current budget year, and the proposed budget year. All expenditures must be classified under one of the following categories:
    - (i) salaries and wages;
    - (ii) operations and maintenance;
    - (iii) capital outlay;
    - (iv) debt service; or
    - (v) transfers out.
  - (c) a projection of changes in fund balances or cash balances available for governmental fund types and a projection of changes in cash balances and working capital for proprietary fund types. This projection must be supported by a summary for each fund or group of funds listing the estimated beginning balance plus estimated revenue, less proposed expenditures, cash reserves, and estimated ending balances.
  - (d) a detailed list of proposed capital expenditures and a list of proposed major capital projects for the budget year;
  - (e) financial data on current and future debt obligations;
  - (f) schedules or summary tables of personnel or position counts for the prior budget year, current budget year, and proposed budget year. The budgeted amounts for personnel services must be supported by a listing of positions, salaries, and benefits for all positions of the local government. The listing of positions, salaries, and benefits is not required to be part of the budget document.
  - (g) all other estimates that fall under the purview of the budget.
- (5) The preliminary annual operating budget for each fund for which the local government will levy an ad valorem property tax must include the estimated amount to be raised by the tax.

[Last noted date: 2001]

#### **7-6-4021. Notice of preliminary or amended budget.**

- (1) The governing body shall cause a notice of a public hearing on the preliminary or amended budget to be published. The notice must:
  - (a) provide that the governing body has completed its preliminary annual budget for the ensuing fiscal year or intends to amend its annual budget;
  - (b) state that the budget or budget amendment has been placed on file and is open to inspection in the county or municipal office designated in the notice;
  - (c) designate the date, time, and place of the meeting at which the governing body will meet for approving a final budget or amended budget and making appropriations; and
  - (d) state that any taxpayer or resident may appear at the meeting and be heard for or against any part of the proposed budget or budget amendment.
- (2) The publication requirements must conform to the provisions of [7-1-2121](#) for a county or [7-1-4127](#) for a municipality.

[Last noted date: 2001]

#### **7-6-4024. Hearing on preliminary budget.**

- (1) The governing body shall hold a hearing in accordance with the notice given pursuant to [7-6-4021](#).
- (2) Local government officials shall attend the budget hearing to answer questions on their proposed budgets if called upon:
  - (a) by the governing body; or
  - (b) by a taxpayer or resident.
- (3) The hearing may be continued from day to day and must be concluded and the budget finally approved and adopted by resolution by the later of the second Monday in August or within 45 calendar days of receiving certified taxable values from the department of revenue.

[Last noted date: 2001]

## **7-6-4025. Receipt and expenditure of money prior to adoption of final budget.**

A local government may receive and expend money between July 1 of the fiscal year and the date the final budget resolution is adopted.

[Last noted date: 2001]

## **7-6-4030. Final budget -- resolution -- appropriations.**

- (1) The governing body may amend the preliminary budget after the public hearing and after considering any public comment.
- (2) The amended budget constitutes the final budget. The final budget must be balanced so that appropriations do not exceed the projected beginning balance plus the estimated revenue of each fund for the fiscal year.
- (3) The governing body shall adopt the final budget by resolution. The resolution must:
  - (a) authorize appropriations to defray the expenses or liabilities for the fiscal year; and
  - (b) establish legal spending limits at the level of detail in the resolution.
- (4) The effective date of the resolution is July 1 of the fiscal year, even if the resolution is adopted after that date.

[Last noted date: 2001]

## **7-6-4031. Budget amendment procedures.**

- (1) The final budget resolution may authorize the governing body or a designated official to transfer appropriations between items within the same fund.
- (2) The annual budget appropriations may be amended as provided in [7-6-4006](#)(3) and [7-6-4012](#).
- (3) Except as provided in [7-6-4006](#), [7-6-4011](#), [7-6-4012](#), [7-6-4015](#), and [7-6-4032](#) or in the case of an emergency under Title 10, chapter 3, a public hearing is required for an overall increase in appropriation authority.

[Last noted date: 2001]

## **7-6-4032. Emergency expenditures.**

- (1) Emergency budget appropriations must be adopted by two-thirds of the members of a governing body who are present at a meeting.
- (2) Emergency expenditures are limited to and must be charged to the adopted emergency budget appropriations.
- (3) The governing body may submit the question of funding emergency warrants at an election as provided by law.

[Last noted date: 2001]

## **7-6-4033. Expenditure limitation.**

Except as provided in [7-6-4006](#), [7-6-4011](#), [7-6-4012](#), [7-6-4015](#), and [7-6-4032](#), the governing body, each county or municipal official, and the district courts are limited to the amount of appropriations and by the classifications in the annual appropriation resolution provided for in [7-6-4030](#) when making disbursements or expenditures or incurring liabilities.

[Last noted date: 2001]

## **7-6-4034. Determination of fund requirements -- property tax levy.**

- (1) After determining the final budget, the governing body shall determine the property tax levy needed for each fund by:
  - (a) adding the total amount of the appropriations and authorized expenditures for the budget year;
  - (b) adding an additional amount, subject to the provisions of subsection (2), as a reserve to meet expenditures made from the fund during the months of July to November of the next fiscal year;
  - (c) subtracting the working capital; and

- (d) subtracting the total estimated revenue, other than the property tax levy, for the budget year.
- (2) After deducting from the amount of the appropriations and authorized expenditures the total amount appropriated and authorized to be spent for election expenses and payment of emergency warrants, the amount that may be added as a reserve, as provided in subsection (1)(b), to:
  - (a) a county's fund may not exceed one-third of the total amount appropriated and authorized to be spent from the fund during the current fiscal year; and
  - (b) a city's or town's fund may not exceed one-half of the total amount appropriated and authorized to be spent from the fund during the current fiscal year.

**[Last noted date: 2001]**

#### **7-6-4035. Tax levies for boards and commissions -- bond exemption.**

- (1) The proposed budget and mill levy for each board, commission, or other governing entity are subject to approval by the governing body.
- (2) Except for a port authority created under Title 7, chapter 14, part 11, the taxes, revenue, or fees legally pledged for the payment of debt are not subject to approval by the governing body.
- (3) Except for judgment levies under [2-9-316](#) or [7-6-4015](#), all tax levies are subject to [15-10-420](#).

**[Last noted date: 2001]**

#### **7-6-4036. Fixing tax levy.**

- (1) The governing body shall fix the tax levy for each taxing jurisdiction within the county or municipality:
  - (a) by the later of the second Monday in August or within 45 calendar days after receiving certified taxable values;
  - (b) after the approval and adoption of the final budget; and
  - (c) at levels that will balance the budgets as provided in [7-6-4034](#).
- (2) Each levy:
  - (a) must be made in the manner provided by [15-10-201](#); and
  - (b) except for a judgment levy under [2-9-316](#) or [7-6-4015](#), is subject to [15-10-420](#).

**[Last noted date: 2001]**

### **General Provisions Related to Local Government**

#### **7-8-103. Authorization for governmental and public entities to take property by gift or devise.**

- (1)
  - (a) All counties, all public hospitals and cemeteries, and other public institutions are hereby granted the power and authority to accept, receive, take, hold, and possess any gift, donation, grant, devise, or bequest of real or personal property and the right to own, hold, work, and improve the same.
  - (b) The provisions of subsection (2) and [7-8-104](#) are hereby made expressly applicable to gifts, donations, grants, devises, and bequests of real or personal property to officers and boards of the public corporations and institutions mentioned in subsection (1)(a).
- (2)
  - (a) Any city or town organized under the laws of Montana is hereby empowered and given the right:
    - (i) to accept, receive, take, hold, own, and possess any gift, donation, grant, devise, or bequest; any property (real, personal, or mixed); any improved or unimproved park or playground; any water, water right, water reservoir, or watershed; any timberland or reserve; or any fish or game reserve in any part of the state;
    - (ii) to own, hold, work, and improve the same.
  - (b) Said gifts, donations, grants, devises, or bequests made to any officer or board of any such city or town shall be considered a gift, donation, grant, devise, or bequest made

for the use and benefit of any such city or town and shall be administered and used by and for such city or town for the particular purpose for which the same was given, donated, granted, devised, or bequeathed. In the event no particular purpose is mentioned in such gift, donation, grant, devise, or bequest, then the same shall be used for the general support, maintenance, or improvement of any such city or town.

[Last noted date: 1947]

## **Interlocal Agreements**

### **7-11-101. Short title.**

This part shall be known and cited as the "Interlocal Cooperation Act".

[Last noted date: 1967]

### **7-11-102. Purpose.**

It is the purpose of this part to permit local governmental units to make the most efficient use of their powers by enabling them to cooperate with other local governmental units on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities.

[Last noted date: 1967]

### **7-11-103. Definition.**

For the purposes of this part, the term "public agency" shall mean any political subdivision, including municipalities, counties, school districts, and any agency or department of the state of Montana.

[Last noted date: 1967]

### **7-11-104. Authorization to create interlocal agreements — issuance of bonds for joint construction.**

One or more public agencies may contract with any one or more other public agencies to perform any administrative service, activity, or undertaking or to participate in the provision or maintenance of any public infrastructure facility, project, or service, including the issuance of bonds for the joint construction of a facility under [20-9-404](#), the hiring of a teacher or specialist under [20-4-201](#) or a superintendent under [20-4-401](#), or the hiring of or contracting with any other professional person licensed under Title 37, that any of the public agencies entering into the contract is authorized by law to perform. The contract must be authorized and approved by the governing body of each party to the contract. The contract must outline fully the purposes, powers, rights, obligations, and responsibilities of the contracting parties.

[Last noted date: 2001]

### **7-11-105. Detailed contents of interlocal agreements.**

The contract authorized by [7-11-104](#) must specify the following:

- (1) its duration;
- (2) the precise organization, composition, and nature of any separate legal entity created by the contract;
- (3) the purpose or purposes of the interlocal contract;
- (4) the manner of financing the joint or cooperative undertaking and establishing and maintaining a budget for the undertaking;
- (5) the permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and, if applicable, for disposing of property upon a partial or complete termination;
- (6) provision for an administrator or a joint board responsible for administering the joint or cooperative undertaking, including representation of the contracting parties on the joint board;
- (7) if applicable, the manner of acquiring, holding, and disposing of real and personal property used in the joint or cooperative undertaking;



- (8) the contracting party responsible for reports and payment of retirement system contributions pursuant to [19-2-506](#);
- (9) if applicable, the manner of sharing the employment of a teacher or specialist under [20-4-201](#), a superintendent under [20-4-401](#), or a professional person licensed under Title 37; and
- (10) any other necessary and proper matters.

[Last noted date: 2001]

#### **7-11-107. Filing of interlocal agreement.**

The interlocal contract made pursuant to this part must be filed with:

- (1) the county clerk and recorder of the county or counties where the political agencies are situated; and
- (2) the secretary of state.

[Last noted date: 1991]

#### **7-11-108. Authorization to appropriate funds for purpose of interlocal agreement.**

Any public agency entering into an interlocal contract pursuant to this part may appropriate funds for and may sell, lease, or otherwise give or supply to the administrative board created for the purpose of performance of said contract and may provide such personnel or services therefor as may be within its legal power to furnish.

[Last noted date: 1967]

### **Consolidation and Transfer of Services**

#### **7-11-301. Purpose.**

- (1) The purpose of this part is to provide procedures for the electors of local governments to consolidate or transfer the administrative and financial responsibility for services between or among municipalities and counties.
- (2) Nothing in this part is to be construed as in any way affecting the authority of local governments to enter into interlocal agreements or contracts as provided by law.

[Last noted date: 1981]

#### **7-11-302. Consolidation and transfer of services.**

- (1) A consolidation or transfer of services between or among municipalities may be proposed by a petition of the electors or on a recommendation of an interlocal cooperation commission as provided in [7-11-230](#).
- (2) A petition or recommendation may propose to consolidate or transfer the administrative or financial responsibility or any administrative service, activity, or undertaking that any of the local governments included in the proposed consolidation or transfer are authorized by law to perform.
- (3) Notwithstanding the requirements of [7-32-101](#), a petition or recommendation may propose to consolidate or transfer any law enforcement administrative service, activity, or undertaking between or among local governments.

[Last noted date: 1981]

#### **7-11-303. Petition for consolidation or transfer of services.**

- (1) A petition or recommendation for the consolidation or transfer of the administrative and financial responsibility for services between or among local governments may be presented to the governing bodies of the local governments affected by the consolidation or transfer.
- (2) A petition must be signed by at least 15% of the electors registered at the last general election of the local governments affected by the proposed consolidation or transfer.
- (3) Whenever the consolidation or transfer of a service between a county and municipality is proposed by petition, the petition must be signed by at least 15% of the electors residing in each municipality included in the service consolidation or transfer and 15% of the electors residing in the remainder of the county.



- (4) Upon determination of the sufficiency of the petition or upon receipt of a recommendation of the interlocal cooperation commission, the governing body of each of the local governments affected by the proposed consolidation or transfer shall call an election on the transfer or consolidation as provided in [7-11-307](#).

[Last noted date: 1981]

#### **7-11-304. Service plan.**

- (1) The petitioners or the interlocal cooperation commission shall prepare a service plan governing the service or activity proposed to be transferred or consolidated.
- (2) The plan shall provide:
  - (a) the nature of service or function to be consolidated or transferred;
  - (b) the effective date of the proposed consolidation or transfer;
  - (c) the responsibility for administration of the service to be consolidated or transferred, including the succession of the performance of duties currently performed by an elected officer if the elective status of an office is affected;
  - (d) manner in which affected employees currently engaged in the performance of the function will be transferred, reassigned, or otherwise treated;
  - (e) the manner in which real property, facilities, equipment, or other personal property required in the exercise of the function are to be transferred, sold, or otherwise disposed of;
  - (f) the method of financing, establishing, and maintaining a budget for the service; and
  - (g) other legal, financial, and administrative arrangements necessary to effect the transfer in an orderly and equitable manner.
- (3) The service plan may include provisions for an administrator or joint board responsible for administering any joint or cooperative undertaking.
- (4) The service plan shall be attached to the petition or to the interlocal cooperation commission's recommendation when it is submitted to the governing bodies affected by the service consolidation or transfer.

[Last noted date: 1981]

#### **7-11-305. Availability of petition or recommendation and service plan.**

- (1) Sufficient copies of the petition or recommendation of the interlocal cooperation commission proposing a service consolidation or transfer and the service plan must be made available to the public for inspection at convenient locations and at reasonable hours to provide all interested persons an opportunity to review the recommendations and documents. The copies must be available no later than 30 days prior to an election on the proposal if an election is to be held. If the election is held, it must be held in conjunction with a regular or primary election.
- (2) Each local government affected by the proposal may distribute copies of the service plan to its residents.

[Last noted date: 1995]

#### **7-11-306. Publication of summary and comparison.**

- (1) A summary of the recommendations contained in a petition or recommendation and the service plan proposing the consolidation or transfer of a service or activity must be published at least twice in a newspaper of general circulation in each local government affected by the proposal. The publication must be made during the 2 weeks preceding the election.
- (2) The summary must contain a description of the recommendations, a comparison of the existing and proposed methods of service delivery, and a list of locations where the full proposal may be seen or obtained.
- (3) The cost of publication required by this section shall be shared by the affected local governments.

[Last noted date: 1981]

### **7-11-307. Election on service consolidation or transfer.**

- (1) The governing bodies of each local government affected by a proposed service consolidation or transfer shall jointly call a special election on the question of service consolidation or transfer, to be held in conjunction with a regular or primary election. The county election administrator shall prepare and print notices of the special election.
- (2) The cost of the election must be shared by the affected local governments in proportionate shares as agreed to by the governing bodies of the local governments.

[Last noted date: 1995]

### **7-11-308. General ballot requirements.**

- (1) The question of adopting a service consolidation or transfer shall be submitted to the electors of the local governments affected by the proposal in substantially the following form:

Shall the plan for (consolidation or transfer) of (insert name of service or function) services proposed in the (petition or recommendation of the interlocal cooperation commission) and service plan to the (insert the names of local government units) be adopted?

☐ YES.

☐ NO.

- (2) If the question of adopting a service consolidation or transfer alters the elective status of any elected county official, it shall be submitted to the electors of the local governments affected by the proposal in substantially the following form:

☐ For adoption of (consolidation or transfer) of (insert name of service or function) proposed in the (petition or recommendation of the interlocal cooperation commission) and service plan to the (insert names of local government units) in which the office of (insert name of county office) is (insert description of changes in elective status).

☐ For existing service delivery arrangements.

- (3) In any election involving the question of service consolidation or transfer, an affirmative vote of a simple majority of those voting on the question is required for adoption.
- (4) If the electors disapprove the proposed service consolidation or transfer, each local government retains its existing service delivery method until changed or modified as provided by law.
- (5) Except for nonsubstantive adjustments required to insure efficient and effective operations, a service consolidation or transfer effected by the procedures contained in this part may be amended or otherwise changed only in the same manner as required for its adoption.

[Last noted date: 1981]

### **7-11-309. Effect of adoption of service consolidation or transfer.**

The adoption of a service consolidation or transfer does not affect the validity of any bond, debt, contract, collective bargaining agreement, obligation, or cause of action accrued or established by any affected local government prior to the consolidation or transfer.

[Last noted date: 1981]

### **7-11-310. Judicial review.**

- (1) Judicial review to determine the validity of the procedures used in adopting any service consolidation or transfer may be initiated by petition in district court of 10 or more registered electors of each local government affected by the consolidation or transfer brought within 60 days after the election adopting the service consolidation or transfer. If no petition is filed within that period, compliance with all the procedures required by [7-11-303](#) through [7-11-310](#) and the validity of the manner in which the service consolidation or transfer was approved is conclusively presumed.

- (2) It is presumed that proper procedure was followed and all procedural requirements were met. The adoption of a service consolidation or transfer may not be considered invalid because of any procedural error or omission unless it is shown that the error or omission materially and substantially affected its adoption.

[Last noted date: 1981]

## **Multijurisdictional Service Districts**

### **7-11-1101. Authority to form multijurisdictional service district.**

Municipalities and counties may form multijurisdictional service districts to provide:

- (1) a higher level of service than is available through the local governments forming such a district; or
- (2) services that are not available through the governments forming such a district.

[Last noted date: 1985]

### **7-11-1102. Services that may be provided.**

- (1) A multijurisdictional service district may provide only those services that are authorized to be provided by local governments.
- (2) The services that a multijurisdictional service district may provide are:
  - (a) recreation programs other than park and recreation programs in a county park district established under Title 7, chapter 16, part 24;
  - (b) road, street, and highway maintenance;
  - (c) libraries;
  - (d) jails;
  - (e) dog control programs;
  - (f) ambulance service;
  - (g) dispatch service;
  - (h) protection of human health and the environment, including scenic concerns and recreational activities for areas requiring or involving environmental reclamation;
  - (i) health services and health department functions; and
  - (j) maintenance or provision of any public infrastructure facility, project, or service.

[Last noted date: 1999]

### **7-11-1105. Creation of district.**

- (1) A multijurisdictional service district is established by an interlocal agreement among participating jurisdictions, as authorized by an ordinance of each of the jurisdictions, to form the district. An ordinance, for the purposes of this part, includes a resolution of a county not having the power to enact ordinances.
- (2) The authorizing ordinance may be passed by the governing body of the jurisdiction or it may be initiated by a petition signed by 15% of the resident property taxpayers of the area proposed for the district in each jurisdiction.
- (3) Prior to determining the boundary of the district, the governing body or persons preparing a petition shall consult with the county election administrator to prepare a description of the boundary of the proposed district. As far as practical, the boundary shall follow precinct, school district, municipal, and county lines. The boundary description must be mapped and clearly described.

[Last noted date: 1985]

### **7-11-1106. Ordinance and petition requirements.**

An ordinance or petition for an ordinance to authorize a multijurisdictional service district must include:

- (1) the name of the proposed district;
- (2) the services to be provided by the proposed district;
- (3) a statement of convenience and necessity;
- (4) a boundary map of the proposed district;

- (5) estimated costs of services and methods of financing the district;
- (6) the method of administering the proposed district; and
- (7) subject to [15-10-420](#), the maximum property tax mill levy for property taxes in the district.

[Last noted date: 1999]

#### **7-11-1107. Adoption of ordinance — protest.**

- (1) Upon receipt of a petition to enact an authorizing ordinance, the governing body of each jurisdiction may either adopt the substantive provisions of the petition as an ordinance or decline to adopt an authorizing ordinance for the district. The action on the petition is subject to the provisions of initiative and referendum as provided in [7-5-131](#) through [7-5-137](#).
- (2)
  - (a) Upon adoption of a multijurisdictional service district authorizing ordinance, notice must be published in a newspaper of general circulation in the jurisdiction.
  - (b) Each notice must set forth the text or substance of the ordinance and the text of subsection (2)(c).
  - (c) Within 30 days of the publication of the notice, electors or property owners of each portion of the proposed district may submit written protests to the local government clerk. If more than 50% of the electors, or the owners of more than 50% of the taxable value of the property, in the affected portion of any one of the jurisdictions proposed for inclusion in the district protest the ordinance of that jurisdiction, the ordinance is void.

[Last noted date: 1985]

#### **7-11-1111. Administration.**

- (1) A multijurisdictional service district must be administered according to an interlocal agreement among the participating jurisdictions within the district.
- (2) The governing body of a multijurisdictional service district may consist of the entire membership of all governing bodies of the participating jurisdictions, or it may be a joint board with representation as set forth in the interlocal agreement forming the district.
- (3) An interlocal agreement under this part may enlarge an existing service district or city or county library, but it may not supersede or void an existing contract or interlocal agreement under which the same service is currently provided to residents of one or more of the participating jurisdictions.
- (4) A library established under this part as a multijurisdictional service must be administered according to the provisions of [22-1-305](#) through [22-1-317](#).

[Last noted date: 1985]

#### **7-11-1112. Financing.**

- (1) Subject to [15-10-420](#), local governments organizing a multijurisdictional service district are authorized to levy property taxes in an amount not to exceed that authorized for the district in [7-11-1106](#) and to appropriate funds derived from other than general tax revenues for the operation of the district. Subject to [15-10-420](#), property taxes levied for a library established under this part as a multijurisdictional service must be added to taxes levied under [22-1-304](#).
- (2) A property tax levied for the purpose of financing the district must, for all agricultural property having an area greater than 10 acres, be levied only on the principal residential dwelling, if any, on the property.

[Last noted date: 1999]

### **Tax Administration**

#### **15-1-121. Entitlement share payment -- appropriation.**

- (1) The amount calculated pursuant to this subsection, as adjusted pursuant to subsection (3)(a)(i), is each local government's base entitlement share. The department shall estimate the total amount of revenue that each local government received from the following sources for the fiscal year ending June 30, 2001:

- (a) personal property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter 584, Laws of 1999;
  - (b) vehicle, boat, and aircraft taxes and fees pursuant to:
    - (i) Title 23, chapter 2, part 5;
    - (ii) Title 23, chapter 2, part 6;
    - (iii) Title 23, chapter 2, part 8;
    - (iv) [61-3-317](#);
    - (v) [61-3-321](#);
    - (vi) Title 61, chapter 3, part 5, except for [61-3-509](#)(3), as that subsection read prior to the amendment of [61-3-509](#) in 2001;
    - (vii) Title 61, chapter 3, part 7;
    - (viii) 5% of the fees collected under [61-10-122](#);
    - (ix) [61-10-130](#);
    - (x) [61-10-148](#); and
    - (xi) [67-3-205](#);
  - (c) gaming revenue pursuant to Title 23, chapter 5, part 6, except for the permit fee in [23-5-612](#)(2)(a);
  - (d) district court fees pursuant to:
    - (i) [25-1-201](#), except those fees in [25-1-201](#)(1)(d), (1)(g), and (1)(j);
    - (ii) [25-1-202](#);
    - (iii) [25-9-506](#); and
    - (iv) [27-9-103](#);
  - (e) certificate of title fees for manufactured homes pursuant to [15-1-116](#);
  - (f) financial institution taxes collected pursuant to the former provisions of Title 15, chapter 31, part 7;
  - (g) all beer, liquor, and wine taxes pursuant to:
    - (i) [16-1-404](#);
    - (ii) [16-1-406](#); and
    - (iii) [16-1-411](#);
  - (h) late filing fees pursuant to [61-3-220](#);
  - (i) title and registration fees pursuant to [61-3-203](#);
  - (j) veterans' cemetery license plate fees pursuant to [61-3-459](#);
  - (k) county personalized license plate fees pursuant to [61-3-406](#);
  - (l) special mobile equipment fees pursuant to [61-3-431](#);
  - (m) single movement permit fees pursuant to [61-4-310](#);
  - (n) state aeronautics fees pursuant to [67-3-101](#); and
  - (o) department of natural resources and conservation payments in lieu of taxes pursuant to Title 77, chapter 1, part 5.
- (2)
- (a) From the amounts estimated in subsection (1) for each county government, the department shall deduct fiscal year 2001 county government expenditures for district courts, less reimbursements for district court expenses, and fiscal year 2001 county government expenditures for public welfare programs to be assumed by the state in fiscal year 2002.
  - (b) The amount estimated pursuant to subsections (1) and (2)(a) is each local government's base year component. The sum of all local governments' base year components is the base year entitlement share pool. For the purpose of calculating the sum of all local governments' base year components, the base year component for a local government may not be less than zero.
- (3)
- (a) The base year entitlement share pool must be increased annually by a growth rate as provided for in this subsection (3). The amount determined through the application of annual growth rates is the entitlement share pool for each fiscal year. By October 1 of each even-numbered year, the department shall calculate the growth rate of the entitlement share pool for each year of the next biennium in the following manner:
    - (i) Before applying the growth rate for fiscal year 2007 to determine the fiscal year 2007 entitlement share payments, the department shall subtract from the fiscal year 2006 entitlement share payments the following amounts:

Beaverhead	\$6,972	Ekalaka	\$689
Big Horn	\$52,551	Ennis	\$1,518
Blaine	\$13,625	Eureka	\$1,733
Broadwater	\$2,564	Fairfield	\$1,120
Carbon	\$11,537	Fairview	\$1,152
Carter	\$407	Flaxville	\$143
Cascade	\$100,000	Forsyth	\$3,286
Chouteau	\$3,536	Fort Benton	\$2,579
Custer	\$7,011	Fort Peck	\$393
Daniels	\$143	Froid	\$328
Dawson	\$3,893	Fromberg	\$855
Fallon	\$1,803	Geraldine	\$457
Fergus	\$9,324	Glasgow	\$5,361
Flathead	\$100,000	Glendive	\$8,099
Gallatin	\$160,000	Grass Range	\$254
Garfield	\$91	Great Falls	\$96,422
Glacier	\$3,035	Hamilton	\$7,148
Golden Valley	\$2,282	Hardin	\$5,920
Granite	\$4,554	Harlem	\$1,422
Hill	\$31,740	Harlowton	\$1,678
Jefferson	\$5,700	Havre	\$16,223
Judith Basin	\$1,487	Helena	\$45,877
Lake	\$38,314	Hingham	\$263
Lewis and Clark	\$160,000	Hobson	\$397
Liberty	\$152	Hot Springs	\$912
Lincoln	\$3,759	Hysham	\$482
Madison	\$8,805	Ismay	\$43
McCone	\$1,651	Joliet	\$1,006
Meagher	\$2,722	Jordan	\$606
Mineral	\$2,361	Judith Gap	\$263
Missoula	\$200,000	Kalispell	\$28,144
Musselshell	\$23,275	Kevin	\$304
Park	\$6,582	Laurel	\$10,804
Petroleum	\$36	Lavina	\$361
Phillips	\$653	Lewistown	\$10,170
Pondera	\$10,270	Libby	\$4,475
Powder River	\$848	Lima	\$397
Powell	\$5,146	Livingston	\$12,145
Prairie	\$717	Lodge Grass	\$889
Ravalli	\$93,090	Malta	\$3,389
Richland	\$3,833	Manhattan	\$2,485
Roosevelt	\$9,526	Medicine Lake	\$410
Rosebud	\$19,971	Melstone	\$234
Sanders	\$30,712	Miles City	\$14,152
Sheridan	\$271	Missoula	\$104,264
Stillwater	\$12,117	Moore	\$319
Sweet Grass	\$2,463	Nashua	\$536
Teton	\$5,560	Neihart	\$149
Toole	\$7,113	Opheim	\$180
Treasure	\$54	Outlook	\$125
Valley	\$6,899	Philipsburg	\$1,612

Wheatland	\$918	Pinesdale	\$1,413
Wibaux	\$72	Plains	\$2,007
Yellowstone	\$270,000	Plentywood	\$3,185
Anaconda-Deer Lodge	\$20,707	Plevna	\$225
Butte-Silver Bow	\$53,057	Polson	\$7,722
Alberton	\$675	Poplar	\$1,544
Bainville	\$258	Red Lodge	\$3,903
Baker	\$2,828	Rexford	\$263
Bearcreek	\$143	Richey	\$309
Belgrade	\$11,704	Ronan	\$3,262
Belt	\$1,056	Roundup	\$3,280
Big Sandy	\$1,130	Ryegate	\$465
Big Timber	\$2,910	Saco	\$354
Billings	\$163,499	Scobey	\$1,798
Boulder	\$2,340	Shelby	\$5,677
Bozeman	\$52,805	Sheridan	\$1,150
Bridger	\$1,303	Sidney	\$7,747
Broadus	\$766	Stanford	\$737
Broadview	\$258	Stevensville	\$3,063
Brockton	\$414	St. Ignatius	\$1,367
Browning	\$1,830	Sunburst	\$709
Cascade	\$1,374	Superior	\$1,521
Chester	\$1,430	Terry	\$1,011
Chinook	\$2,275	Thompson Falls	\$2,272
Choteau	\$3,050	Three Forks	\$3,130
Circle	\$1,018	Townsend	\$3,286
Clyde Park	\$572	Troy	\$1,654
Colstrip	\$4,090	Twin Bridges	\$695
Columbia Falls	\$6,805	Valier	\$817
Columbus	\$3,245	Virginia City	\$223
Conrad	\$4,562	Walkerville	\$1,183
Culbertson	\$1,216	West Yellowstone	\$2,083
Cut Bank	\$5,316	Westby	\$263
Darby	\$1,348	White Sulphur Springs	\$1,734
Deer Lodge	\$5,708	Whitefish	\$9,932
Denton	\$503	Whitehall	\$1,889
Dillon	\$6,928	Wibaux	\$893
Dodson	\$194	Winifred	\$259
Drummond	\$561	Winnett	\$314
Dutton	\$661	Wolf Point	\$4,497
East Helena	\$2,888		

- (ii) The department shall calculate the average annual growth rate of the Montana gross state product, as published by the bureau of economic analysis of the United States department of commerce, for the following periods:
  - (A) the last 4 calendar years for which the information has been published; and
  - (B) the 4 calendar years beginning with the year before the first year in the period referred to in subsection (3)(a)(ii)(A).
- (iii) The department shall calculate the average annual growth rate of Montana personal income, as published by the bureau of economic analysis of the United States department of commerce, for the following periods:

- (A) the last 4 calendar years for which the information has been published; and
  - (B) the 4 calendar years beginning with the year before the first year in the period referred to in subsection (3)(a)(iii)(A).
- (b)
  - (i) The entitlement share pool growth rate for the first year of the biennium must be the following percentage of the average of the growth rates calculated in subsections (3)(a)(ii)(B) and (3)(a)(iii)(B):
    - (A) for counties, 54%;
    - (B) for consolidated local governments, 62%; and
    - (C) for incorporated cities and towns, 70%.
  - (ii) The entitlement share pool growth rate for the second year of the biennium must be the following percentage of the average of the growth rates calculated in subsections (3)(a)(ii)(A) and (3)(a)(iii)(A):
    - (A) for counties, 54%;
    - (B) for consolidated local governments, 62%; and
    - (C) for incorporated cities and towns, 70%.
- (4) As used in this section, "local government" means a county, a consolidated local government, an incorporated city, and an incorporated town. A local government does not include a tax increment financing district provided for in subsection (6). For purposes of calculating the base year component for a county or consolidated local government, the department shall include the revenue listed in subsection (1) for all special districts within the county or consolidated local government. The county or consolidated local government is responsible for making an allocation from the county's or consolidated local government's share of the entitlement share pool to each special district within the county or consolidated local government in a manner that reasonably reflects each special district's loss of revenue sources listed in subsection (1).
- (5)
  - (a) The entitlement share pools calculated in this section and the block grants provided for in subsection (6) are statutorily appropriated, as provided in [17-7-502](#), from the general fund to the department for distribution to local governments. Each local government is entitled to a pro rata share of each year's entitlement share pool based on the local government's base component in relation to the base year entitlement share pool. The distributions must be made on a quarterly basis.
  - (b)
    - (i) The growth amount is the difference between the entitlement share pool in the current fiscal year and the entitlement share pool in the previous fiscal year. For the purposes of subsection (5)(b)(ii)(A), a county with a negative base year component has a base year component of zero. The growth factor in the entitlement share must be calculated separately for:
      - (A) counties;
      - (B) consolidated local governments; and
      - (C) incorporated cities and towns.
    - (ii) In each fiscal year, the growth amount for counties must be allocated as follows:
      - (A) 50% of the growth amount must be allocated based upon each county's percentage of the base year entitlement share pool for all counties; and
      - (B) 50% of the growth amount must be allocated based upon the percentage that each county's population bears to the state population not residing within consolidated local governments as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.
    - (iii) In each fiscal year, the growth amount for consolidated local governments must be allocated as follows:
      - (A) 50% of the growth amount must be allocated based upon each consolidated local government's percentage of the base year entitlement share pool for all consolidated local governments; and



- (B) 50% of the growth amount must be allocated based upon the percentage that each consolidated local government's population bears to the state's total population residing within consolidated local governments as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.
  - (iv) In each fiscal year, the growth amount for incorporated cities and towns must be allocated as follows:
    - (A) 50% of the growth amount must be allocated based upon each incorporated city's or town's percentage of the base year entitlement share pool for all incorporated cities and towns; and
    - (B) 50% of the growth amount must be allocated based upon the percentage that each city's or town's population bears to the state's total population residing within incorporated cities and towns as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.
  - (v) In each fiscal year, the amount of the entitlement share pool not represented by the growth amount is distributed to each local government in the same manner as the entitlement share pool was distributed in the prior fiscal year.
- (6)
- (a) If a tax increment financing district was not in existence during the fiscal year ending June 30, 2000, then the tax increment financing district is not entitled to any block grant. If a tax increment financing district referred to in subsection (6)(b) terminates, then the block grant provided for in subsection (6)(b) terminates.
  - (b) One-half of the payments provided for in this subsection (6)(b) must be made by November 30 and the other half by May 31 of each year. Subject to subsection (6)(a), the entitlement share for tax increment financing districts is as follows:
- (7) The estimated base year entitlement share pool and any subsequent entitlement share pool for local governments do not include revenue received from countywide transportation block grants or from countywide retirement block grants.
- (8)
- (a) If revenue that is included in the sources listed in subsections (1)(b) through (1)(o) is significantly reduced, except through legislative action, the department shall deduct the amount of revenue loss from the entitlement share pool beginning in the succeeding fiscal year and the department shall work with local governments to propose legislation to adjust the entitlement share pool to reflect an allocation of the loss of revenue.
  - (b) For the purposes of subsection (8)(a), a significant reduction is a loss that causes the amount of revenue received in the current year to be less than 95% of the amount of revenue received in the base year.
- (9) A three-fifths vote of each house is required to reduce the amount of the entitlement share calculated pursuant to subsections (1) through (3).
- (10) When there has been an underpayment of a local government's share of the entitlement share pool, the department shall distribute the difference between the underpayment and the correct amount of the entitlement share. When there has been an overpayment of a local government's entitlement share, the local government shall remit the overpaid amount to the department.
- (11) A local government may appeal the department's estimation of the base year component, the entitlement share pool growth rate, or a local government's allocation of the entitlement share pool, according to the uniform dispute review procedure in 15-1-211.
- (12) A payment required pursuant to this section may not be offset by a debt owed to a state agency by a local government in accordance with Title 17, chapter 4, part 1.

[Last noted date: 2007]

## 15-1-122. Fund transfers.

- (1) There is transferred from the state general fund to the adoption services account, provided for in [42-2-105](#), \$36,764 for fiscal year 2003. Beginning with fiscal year 2004, the amount of the transfer must be increased by 10% in each succeeding fiscal year.

- (2) There is transferred from the state general fund to the department of transportation state special revenue nonrestricted account the following amounts:
- (a) \$75,000 in fiscal year 2003;
  - (b) \$0 in fiscal years 2004 and 2005;
  - (c) \$3,050,205 in fiscal year 2006; and
  - (d) in each succeeding fiscal year, the amount in subsection (2)(c), increased by 1.5% in each succeeding fiscal year.
- (3) For each fiscal year, there is transferred from the state general fund to the accounts, entities, or recipients indicated the following amounts:
- (a) to the motor vehicle recycling and disposal program provided for in Title 75, chapter 10, part 5:
    - (i) \$2 for each new application for a motor vehicle title and for each transfer of a motor vehicle title for which a fee is paid pursuant to [61-3-203](#); and
    - (ii) \$1 for each passenger car or truck under 8,001 pounds GVW that is registered for licensing pursuant to Title 61, chapter 3, part 3, and \$5 for each permanently registered light vehicle. Fifteen cents of each dollar must be used for the purpose of reimbursing the hired removal of abandoned vehicles during the calendar year following the calendar year in which the fee was paid. Any portion of the 15 cents not used for abandoned vehicle removal reimbursement during the calendar year following its payment must be used as provided in [75-10-532](#).
  - (b) to the noxious weed state special revenue account provided for in [80-7-816](#):
    - (i) \$1 in fiscal year 2006 and, in each subsequent year, \$2.75 for each off-highway vehicle for which the fee in lieu of tax is paid, as provided for in [23-2-803](#); and
    - (ii) for vehicles registered or reregistered pursuant to [61-3-321](#):
      - (A) \$1.50 for each registered light vehicle, truck or bus weighing less than 1 ton, logging truck, vehicle weighing more than 1 ton, and motor home; and
      - (B) \$1.50 in fiscal year 2006 and, in each subsequent year, \$3.65 for each motorcycle and quadricycle; and
      - (C) \$7.50 for each permanently registered light vehicle;
  - (c) to the department of fish, wildlife, and parks:
    - (i) \$2.50 in fiscal year 2006 and, in each subsequent year, \$14.50 for each motorboat, sailboat, or personal watercraft receiving a certificate of number under [23-2-512](#), with 20% of the amount received to be used to acquire and maintain pumpout equipment and other boat facilities;
    - (ii) \$5 in fiscal year 2006 and, in each subsequent year, \$19 for each snowmobile registered under [23-2-616](#), with 50% of the amount to be used for enforcing the purposes of [23-2-601](#), [23-2-602](#), [23-2-611](#), [23-2-614](#) through [23-2-619](#), [23-2-621](#), [23-2-622](#), [23-2-626](#), [23-2-631](#) through [23-2-635](#), and [23-2-641](#) through [23-2-644](#) and 50% of the amount designated for use in the development, maintenance, and operation of snowmobile facilities;
    - (iii) \$1 for each duplicate snowmobile registration decal issued under [23-2-617](#);
    - (iv) \$5 in fiscal year 2006 and, in each subsequent year, \$13.25 for each off-highway vehicle decal issued under [23-2-804](#) and each off-highway vehicle duplicate decal issued under [23-2-809](#), with 40% of the money used to enforce the provisions of [23-2-804](#) and 60% of the money used to develop and implement a comprehensive program and to plan appropriate off-highway vehicle recreational use;
    - (v) to the state special revenue fund established in [23-1-105](#), \$3.50 in fiscal year 2006 and, in each subsequent year, \$8 for each recreational vehicle, motor home, and travel trailer registered or reregistered and subject to the fee in [61-3-321](#);
    - (vi) an amount equal to 20% of the funds collected pursuant to [23-2-518](#) to be deposited in the motorboat account to be used as provided in [23-2-533](#); and
    - (vii) to the state special revenue fund established in [23-1-105](#), \$4 for each passenger car or truck under 8,001 pounds GVW registered for licensing pursuant to [61-3-321](#)(11)(a), with \$3.50 of the money used for state parks, 25

- cents used for fishing access sites, and 25 cents used for the operation of state-owned facilities at Virginia City and Nevada City;
- (d) to the state veterans' cemetery account, provided for in [10-2-603](#), \$10 for each veteran's license plate subject to the fee in [61-3-459](#);
  - (e) to the supplemental benefits for highway patrol officers' retirement account provided for in [19-6-709](#), 25 cents for each motor vehicle registered, other than:
    - (i) trailers or semitrailers registered in other jurisdictions and registered through a proportional registration agreement; and
    - (ii) vehicles registered under [61-3-527](#), [61-3-530](#), and [61-3-562](#);
  - (f) 25 cents a year for each registered vehicle and \$1.25 for each permanently registered vehicle subject to the fee in [61-3-321](#)(6) for deposit in the state special revenue fund to the credit of the senior citizens and persons with disabilities transportation services account provided for in [7-14-112](#);
  - (g) to the search and rescue account provided for in [10-3-801](#):
    - (i) \$2 a year for each vessel [subject to the search and rescue surcharge] in [23-2-517](#);
    - (ii) \$2 a year for each snowmobile [subject to the search and rescue surcharge] in [23-2-615](#)(1)(b) and [23-2-616](#)(3); and
    - (iii) \$2 a year for each off-highway vehicle [subject to the search and rescue surcharge] in [23-2-803](#); and
  - (h) 50 cents a year for each vehicle subject to the fee in [61-3-321](#)(7) for deposit in the state special revenue fund to the credit of the veterans' services account provided for in [10-2-112](#)(1).
- (4) For each fiscal year, the department of justice shall provide to the department of revenue a count of the vehicles required for the calculations in subsection (3). The department of justice shall provide a separate count of vehicles that are permanently registered pursuant to [61-3-562](#). A permanently registered vehicle may be included in vehicle counts only in the year in which the vehicle is registered or reregistered. Transfer amounts in each fiscal year must be based on vehicle counts in the most recent calendar year for which vehicle information is available. Vehicles that are permanently registered may be included in vehicle counts only in the year in which the vehicles are registered by new owners.
- (5) The amounts transferred from the general fund to the designated recipient must be appropriated as state special revenue in the general appropriations act for the designated purposes.

[Last noted date: 2007]

## Tax-Exempt Property

### 15-6-201. Governmental, charitable, and educational categories -- exempt property.

- (1) The following categories of property are exempt from taxation:
- (a) except as provided in [15-24-1203](#), the property of:
    - (i) the United States, except:
      - (A) if congress passes legislation that allows the state to tax property owned by the federal government or an agency created by congress; or
      - (B) as provided in [15-24-1103](#);
    - (ii) the state, counties, cities, towns, and school districts;
    - (iii) irrigation districts organized under the laws of Montana and not operated for gain or profit;
    - (iv) municipal corporations;
    - (v) public libraries; and [this law goes on for several pages which do not need to be quoted here]

[Last noted date: 2005]

## Property Tax Levies

### 15-10-401. Declaration of policy.

- (1) The state of Montana's reliance on the taxation of property to support education and local government has placed an unreasonable burden on the owners of all classes of property described in Title 15, chapter 6, part 1.
- (2) Except as provided in [15-10-420](#), the people of the state of Montana declare that it is the policy of the state of Montana that no further property tax increases be imposed on property. In order to reduce volatility in property taxation and in order to reduce taxpayer uncertainty, it is the policy of the legislature to develop alternatives to market value for purposes of taxation.

[Last noted date: 1999]

### 15-10-402. Property tax limited to 1996 levels.

Except as provided in [15-10-420](#), the amount of taxes levied on property described in Title 15, chapter 6, part 1, may not, for any taxing jurisdiction, exceed the amount levied for tax year 1996.

[Last noted date: 1999]

### 15-10-406. Limitation of applicability.

The minimum tax imposed by [15-16-118](#) is not affected by the provisions of this part.

[Last noted date: 1991]

### 15-10-420. Procedure for calculating levy..

- (1)
  - (a) Subject to the provisions of this section, a governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3 years. The maximum number of mills that a governmental entity may impose is established by calculating the number of mills required to generate the amount of property tax actually assessed in the governmental unit in the prior year based on the current year taxable value, less the current year's value of newly taxable property, plus one-half of the average rate of inflation for the prior 3 years.
  - (b) A governmental entity that does not impose the maximum number of mills authorized under subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority carried forward may be imposed in a subsequent tax year.
  - (c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.
- (2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional levies authorized by the voters, as provided in [15-10-425](#), to all property in the governmental unit, including newly taxable property.
- (3)
  - (a) For purposes of this section, newly taxable property includes:
    - (i) annexation of real property and improvements into a taxing unit;
    - (ii) construction, expansion, or remodeling of improvements;
    - (iii) transfer of property into a taxing unit;
    - (iv) subdivision of real property; and
    - (v) transfer of property from tax-exempt to taxable status.
  - (b) Newly taxable property does not include an increase in value that arises because of an increase in the incremental value within a tax increment financing district.
- (4)
  - (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the release of taxable value from the incremental taxable value of a tax increment financing district because of:
    - (i) a change in the boundary of a tax increment financing district;

- (ii) an increase in the base value of the tax increment financing district pursuant to [7-15-4287](#); or
  - (iii) the termination of a tax increment financing district.
- (b) If a tax increment financing district terminates prior to the certification of taxable values as required in [15-10-202](#), the increment value is reported as newly taxable property in the year in which the tax increment financing district terminates. If a tax increment financing district terminates after the certification of taxable values as required in [15-10-202](#), the increment value is reported as newly taxable property in the following tax year.
- (c) For the purpose of subsection (3)(a)(iv), the subdivision of real property includes the first sale of real property that results in the property being taxable as class four property or as nonqualified agricultural land as described in [15-6-133](#)(1)(c).
- (5) Subject to subsection (8), subsection (1)(a) does not apply to:
  - (a) school district levies established in Title 20; or
  - (b) the portion of a governmental entity's property tax levy for premium contributions for group benefits excluded under [2-9-212](#) or [2-18-703](#).
- (6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received under [15-6-131](#) and [15-6-132](#).
- (7) In determining the maximum number of mills in subsection (1)(a), the governmental entity may increase the number of mills to account for a decrease in reimbursements.
- (8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes of [15-10-107](#), [20-9-331](#), [20-9-333](#), [20-9-360](#), [20-25-423](#), and [20-25-439](#). However, the number of mills calculated by the department may not exceed the mill levy limits established in those sections. The mill calculation must be established in whole mills. If the mill levy calculation does not result in a whole number of mills, then the calculation must be rounded up to the nearest whole mill.
- (9)
  - (a) The provisions of subsection (1) do not prevent or restrict:
    - (i) a judgment levy under [2-9-316](#), [7-6-4015](#), or [7-7-2202](#);
    - (ii) a levy to repay taxes paid under protest as provided in [15-1-402](#);
    - (iii) an emergency levy authorized under [10-3-405](#), [20-9-168](#), or [20-15-326](#); or
    - (iv) a levy for the support of a study commission under [7-3-184](#).
  - (b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes actually assessed in a subsequent year.
- (10) A governmental entity may levy mills for the support of airports as authorized in [67-10-402](#), [67-11-301](#), or [67-11-302](#) even though the governmental entity has not imposed a levy for the airport or the airport authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating funds by a county or municipality during that time.
- (11) The department may adopt rules to implement this section. The rules may include a method for calculating the percentage of change in valuation for purposes of determining the elimination of property, new improvements, or newly taxable property in a governmental unit.

[Last noted date: 2007]

## **15-10-425. Mill levy election.**

- (1) A county, consolidated government, incorporated city, incorporated town, school district, or other taxing entity may impose a new mill levy, increase a mill levy that is required to be submitted to the electors, or exceed the mill levy limit provided for in [15-10-420](#) by conducting an election as provided in this section.
- (2) An election conducted pursuant to this section may be held in conjunction with a regular or primary election or may be a special election. The governing body shall pass a resolution, shall amend its self-governing charter, or must receive a petition indicating an intent to impose a new levy, increase a mill levy, or exceed the current statutory mill levy provided for in [15-10-420](#) on the approval of a majority of the qualified electors voting in the election. The resolution, charter amendment, or petition must include:
  - (a) the specific purpose for which the additional money will be used;
  - (b) either:
    - (i) the specific amount of money to be raised and the approximate number of mills to be imposed; or



- (ii) the specific number of mills to be imposed and the approximate amount of money to be raised; and
  - (c) whether the levy is permanent or the durational limit on the levy.
- (3) Notice of the election must be prepared by the governing body and given as provided by law. The form of the ballot must reflect the content of the resolution or charter amendment and must include a statement of the impact of the election on a home valued at \$100,000 and a home valued at \$200,000 in the district in terms of actual dollars in additional property taxes that would be imposed on residences with those values if the mill levy were to pass. The ballot may also include a statement of the impact of the election on homes of any other value in the district, if appropriate.
- (4) If the majority voting on the question are in favor of the additional levy, the governing body is authorized to impose the levy in either the amount or the number of mills specified in the resolution or charter amendment.
- (5) A governing body, as defined in [7-6-4002](#), may reduce an approved levy in any fiscal year without losing the authority to impose in a subsequent fiscal year up to the maximum amount or number of mills approved in the election. However, nothing in this subsection authorizes a governing body to impose more than the approved levy in any fiscal year or to extend the duration of the approved levy.

[Last noted date: 2007]

## [Coal Severance Taxes] General Provisions

### 15-35-108. (Temporary) Disposal of severance taxes.

Severance taxes collected under this chapter must, in accordance with the provisions of [17-2-124](#), be allocated as follows:

- (1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under [17-6-203](#)(6) and invested by the board of investments as provided by law.
- (2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in [17-7-205](#).
- (3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.
- (4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in [23-1-102](#).
- (5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.
- (6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.
- (7) The amount of 2.9% must be credited to the oil, gas, and coal natural resource account established in [90-6-1001](#).
- (8) After the allocations are made under subsections (2) through (7), \$250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in [82-4-244](#).
- (9)
  - (a) Subject to subsection (9)(b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state.

- (b) The interest income from \$140 million of the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in [17-7-502](#), on an annual basis as follows:
  - (i) \$65,000 to the cooperative development center;
  - (ii) \$1.25 million for the growth through agriculture program provided for in Title 90, chapter 9;
  - (iii) \$3.65 million to the research and commercialization state special revenue account created in [90-3-1002](#);
  - (iv) to the department of commerce:
    - (A) \$125,000 for a small business development center;
    - (B) \$50,000 for a small business innovative research program;
    - (C) \$425,000 for certified regional development corporations;
    - (D) \$200,000 for the Montana manufacturing extension center at Montana state university-Bozeman; and
    - (E) \$300,000 for export trade enhancement. (Effective July 1, 2010)

### **15-35-108. (Effective July 1, 2010) . Disposal of severance taxes.**

Severance taxes collected under this chapter must, in accordance with the provisions of [17-2-124](#), be allocated as follows:

- (1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under [17-6-203](#)(6) and invested by the board of investments as provided by law.
- (2) The amount of 12% of coal severance tax collections is allocated to the long-range building program account established in [17-7-205](#).
- (3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.
- (4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in [23-1-102](#).
- (5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.
- (6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.
- (7) The amount of 2.9% must be credited to the oil, gas, and coal natural resource account established in [90-6-1001](#).
- (8) After the allocations are made under subsections (2) through (7), \$250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in [82-4-244](#).
- (9) All other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state.

[Last noted date: 2007]

## **Board of Public Education**

### **20-2-121. Board of public education -- powers and duties.**

The board of public education shall:

- (7) approve or disapprove educational media selected by the superintendent of public instruction for the educational media library in accordance with the provisions of [20-7-201](#);

## **Superintendent of Public Instruction**

### **20-3-104. Discretionary staff.**

In addition to the positions of employment listed in [20-3-103](#), the superintendent of public instruction may employ:

- (1) one or more assistant superintendents, one of whom may be designated as assistant superintendent for K-12 career and vocational/technical education;
- (2) a high school supervisor who is the holder of a class 3 teacher certificate with a district superintendent endorsement;
- (3) an elementary supervisor who is the holder of a valid teacher certificate;
- (4) a competent person to develop economy and efficiency in school transportation and to otherwise supervise the transportation program;
- (5) a music supervisor who is a graduate of an accredited institution of higher education in music education and who has not less than 5 years of teaching experience;
- (6) an educational media supervisor who is a graduate of an accredited institution of higher education and who has experience in the field of educational media; and
- (7) any other supervisors or assistants that may be required to carry out the duties of the office.

[Last noted date: 2001]

## **District Superintendent and Principal**

### **20-4-402. Duties of district superintendent or county high school principal.**

The district superintendent or county high school principal is the executive officer of the trustees and, subject to the direction and control of the trustees, the executive officer shall:

- (1) have general supervision of all schools of the district and the personnel employed by the district;
- (2) implement and administer the policies of the trustees of the district;
- (3) develop and recommend courses of instruction to the trustees for their consideration and approval in accordance with the provisions of [20-7-111](#);
- (4) select all textbooks and submit the selections to the trustees for their approval in accordance with the provisions of [20-7-602](#);
- (5) select all reference and library books and submit the selections to the trustees for their approval in accordance with provisions of [20-7-204](#);
- (6) have general supervision of all pupils of the district, enforce the compulsory attendance provisions of this title, and have the authority to suspend for good cause a pupil of the district;
- (7) report the pupil attendance, absence, and enrollment of the district and other pupil information required by the report form prescribed by the superintendent of public instruction to the county superintendent, or county superintendents when reporting for a joint district; and
- (8) perform other duties in connection with the district as the trustees may prescribe.

[Last noted date: 1999]

### **20-4-403. Powers and duties of principal.**

(1) Whenever the trustees of a district employ and appoint a school principal but do not employ and appoint a district superintendent, such principal shall perform the duties of a district superintendent as prescribed in subsections (4), (5), (6), (7), and (8) of [20-4-402](#) and shall have general supervision of such school and the personnel assigned to such school.

(2) If granted authority by the board of trustees, a school principal in a district that does employ and appoint a district superintendent may suspend for good cause any pupil of the school where the principal is employed.

[Last noted date: 1981]



## **Accreditation and Curriculum**

### **20-7-112. Sectarian publications prohibited and prayer permitted.**

A publication of a sectarian or denominational character may not be distributed in any school. Instruction may not be given advocating sectarian or denominational doctrines. However, any teacher, principal, or superintendent may open the school day with a prayer. This section does not prohibit a school library from including the Bible or other religious material having cultural, historical, or educational significance.

[Last noted date: 1989]

## **[School Instruction and Special Programs] Libraries**

### **20-7-201. State visual, aural, and other educational media library.**

A library of visual, aural, and other educational media shall be established and maintained by the superintendent of public instruction. The media shall be selected by the superintendent of public instruction on the basis of their usefulness as teaching aids and resources for schools and other educational groups within the state and shall be made available to such schools and groups on a rental fee basis. The rental fees for the use of the materials in the library shall be set by the superintendent of public instruction and shall be deposited in the audiovisual and media library account in the state special revenue fund. The superintendent of public instruction may use these funds, as well as any other funds advanced by a legislative appropriation to the audiovisual and media library account, for the operation, maintenance, enlargement, and other related costs of the library.

[Last noted date: 1987]

### **20-7-202. School library required.**

The trustees of each district shall establish and maintain a school library in each school of the district. Each school library shall comply with at least the minimum requirements of the standards of accreditation adopted by the board of public education.

[Last noted date: 1971]

### **20-7-203. Trustees' policies for school library.**

The trustees shall adopt those policies necessary for regulating the use and operation of school libraries. These policies may provide for the use of school libraries by the residents of the district, provided that such use does not interfere with the regular school use of the library.

[Last noted date: 1971]

### **20-7-204. School library book selection.**

School library books shall be selected by the district superintendent or a principal if there is no district superintendent, subject to the approval of the trustees. In districts not employing a superintendent or principal, the trustees shall select the school library books on the basis of recommendations of the county superintendent.

[Last noted date: 1971]

### **20-7-205. Reporting school library information.**

The trustees shall report school library information requested by the superintendent of public instruction, by the board of public education, or when there is no district superintendent or principal, by the county superintendent.

[Last noted date: 1971]

## **University Units**

### **20-25-212. Bureau of mines and geology — purpose.**

The bureau of mines and geology shall:

- (1) compile and publish statistics relative to Montana geology, mining, milling, and metallurgy;

- (2) collect:
  - (a) typical geological and mineral specimens;
  - (b) samples of products;
  - (c) photographs, models, and drawings of appliances used in the mines, mills, and smelters of Montana; and
  - (d) a library and a bibliography of literature relative to the progress of geology, mining, milling, and smelting in Montana;

[Last noted date: 1995]

## **Montana Educational Telecommunications [Network] General**

### **20-32-101. Purpose — definition.**

- (1) The purpose of this part is to establish a Montana educational telecommunications network.
- (2) For the purposes of this part, "network" means the Montana educational telecommunications network (METNET).
- (3) The aims of the network are to provide:
  - (a) instructional and educational coursework and materials through telecommunications delivery to students in kindergarten through 12th grade in the Montana public school system;
  - (b) instructional and educational coursework and materials through telecommunications delivery to students enrolled in units of the Montana university system and the community colleges;
  - (c) instructional and professional development or other appropriate inservice training for teachers in the schools of the state; and
  - (d) telecommunications capabilities to agencies, subdivisions of state government, and public libraries in order to improve their ability to perform their responsibilities and duties.

[Last noted date: 1995]

### **20-32-102. Agency cooperation — responsibilities.**

- (1) To meet the objectives of the network, the following entities shall cooperate with one another:
  - (a) the department of administration, with its responsibilities for telecommunications for agencies of state government;
  - (b) the superintendent of public instruction, with a supervisory role over the public system of elementary and high schools; and
  - (c) the commissioner of higher education, with responsibilities to the Montana university system and the community colleges.
- (2) The responsibilities of the superintendent of public instruction to the network include but are not limited to:
  - (a) general supervision of delivery of educational materials through telecommunications to elementary and high school districts in the state;
  - (b) compilation, maintenance, and dissemination to participating school districts of information that identifies the educational programming available from within and from outside the state;
  - (c) training of teachers and other school personnel in the use of telecommunications technologies for instructional purposes;
  - (d) assistance to school districts in identifying and procuring the telecommunications technologies needed to interface with the network;
  - (e) identification of production capability for telecommunication of educational materials;
  - (f) assistance to participating school districts with group purchases of instructional and educational materials;
  - (g) coordination with the commissioner of higher education and the units of the Montana university system to offer advanced placement courses, teacher inservice training, and other instruction through the network;
  - (h) payment of the superintendent's share of the network costs to the department of administration, as provided in [20-32-104](#);

- (i) coordination with the department of administration to ensure compatibility of network components, to minimize duplication of efforts on behalf of the network, and to maximize use of the network by school districts; and
  - (j) determination of kinds of equipment, inservice, and district accounting necessary to implement the provisions of this part for school districts.
- (3) The responsibilities of the department of administration to the network include but are not limited to:
  - (a) provision of technical support to the coordinating agencies referred to in subsection (1);
  - (b) development of standards of compatibility for the network;
  - (c) procurement and management of network equipment and facilities that have shared use by multiple users or agencies;
  - (d) assistance with procurement, installation, maintenance, and operation of end-terminal equipment and facilities of the network;
  - (e) minimizing any duplication of equipment and facilities within the network and in conjunction with the department of administration's other networking capabilities;
  - (f) coordination of use of the network by state agencies, subdivisions of the state, and public libraries in a manner that does not interfere with the delivery of the primary network function of providing educational services to school districts and state units of higher education;
  - (g) studying the use of the network by Native American tribal colleges and other nonpublic education institutions in the state, with the long-range goal of coordinating the use of the network with those entities; and
  - (h) maintenance of cost and usage records and a billing system for user agencies for services rendered that incur marginal costs for the network.
- (4) The responsibilities of the commissioner of higher education to the network include but are not limited to:
  - (a) coordination of the use of the network among the units of higher education and with the superintendent of public instruction and the department of administration;
  - (b) assistance to the units of the Montana university system to provide college credit courses through the network to students throughout the state;
  - (c) coordination with the superintendent of public instruction to develop advance placement courses for high school students in Montana, teacher inservice training, and other services and instruction through the network;
  - (d) assistance to the units of the Montana university system and the community colleges in defining their specific needs for interfacing with the network;
  - (e) assistance to participating units, centers, and colleges with group purchases of instructional and educational materials; and
  - (f) determination of the kinds of equipment, inservice, and accounting necessary to implement the provisions of this part for the university system and community colleges.

[Last noted date: 1995]

### **20-32-103. Fee collection and disposition for operational costs.**

As a condition of participation in the network, the Montana university system and community colleges shall collect from appropriate discretionary funds in a manner approved by the board of regents an amount not to exceed \$5 for each full-time equivalent student enrolled in the units or colleges. The funds collected must be deposited with the commissioner of higher education for the purposes of [20-32-102](#)(4). The commissioner of higher education shall pay the department of administration the commissioner's share of the network costs.

[Last noted date: 1997]

### **20-32-104. Apportionment of costs.**

The superintendent of public instruction and the commissioner of higher education shall share on a prorated basis according to the related student counts any costs incurred by the department of administration for the purposes of [20-32-102](#)(3).

[Last noted date: 1991]

## State Library Commission

### 22-1-101. State library commission established.

- (1) There is a state library commission.
- (2) This commission is composed of the following members:
  - (a) the state superintendent of public instruction or his designee;
  - (b) five persons appointed by the governor, who shall serve staggered terms of 3 years; and
  - (c) a librarian appointed by the commissioner of higher education from one of the six units of the Montana university system, who shall serve a term of 3 years.
- (3) The commission shall annually elect a chairman from its membership.
- (4) The members of said commission shall be compensated and receive travel expenses as provided for in [2-15-124](#).

[Last noted date: 1985]

### 22-1-102. Librarian and assistants.

The commission shall employ as its executive officer a librarian, who is a graduate of an accredited library school and is not a member of the commission, for such compensation as the commission considers adequate. The executive officer shall perform the duties assigned by the commission and serve at the will of the commission. The commission may also employ such other assistants as are required for the performance of the commission's work. In addition to their salaries while on commission business, the librarian and assistants shall be allowed their travel expenses, as provided for in [2-18-501](#) through [2-18-503](#), as amended.

[Last noted date: 1977]

### 22-1-103. State library commission -- authority.

The state library commission may:

- (1) give assistance and advice to all tax-supported or public libraries in the state and to all counties, cities, towns, or regions in the state that propose to establish libraries, as to the best means of establishing and improving those libraries;
- (2) maintain and operate the state library and make provision for its housing;
- (3)
  - (a) accept and expend in accordance with the terms of a grant any grant of federal funds that is available to the state for library purposes;
  - (b) accept, receive, and administer any gifts, donations, bequests, and legacies made to the Montana state library. Unless otherwise provided by the donor, gifts, donations, bequests, and legacies must be deposited in the Montana state library trust established in [22-1-225](#).
- (4) make rules and establish standards for the administration of the state library and for the control, distribution, and lending of books and materials;
- (5) serve as the agency of the state to accept and administer any state, federal, or private funds or property appropriated for or granted to it for library service or foster libraries in the state and establish regulations under which funds must be disbursed;
- (6) provide library services for the blind and for individuals with physical disabilities;
- (7) furnish, by contract or otherwise, library assistance and information services to state officials, state departments, and residents of those parts of the state inadequately serviced by libraries;
- (8) act as a state board of professional standards and library examiners, develop standards for public libraries, and adopt rules for the certification of librarians;
- (9) designate areas for and establish federations of libraries.

[Last noted date: 2005]

## State Library

### 22-1-201. State library authorized.

The state library commission shall maintain and operate a state library to be located in Helena.

[Last noted date: 1977]

## **22-1-211. Definitions.**

As used in this part, the following definitions apply:

- (1) "Depository library" means a library contracted by the state library under [22-1-212](#)(2) to provide the general public access to state publications.
- (2) "State agency" means any entity established or authorized by law to govern operations of the state, such as a state office, officer, department, division, section, bureau, board, commission, council, and agency of the state and all subdivisions of each.
- (3)
  - (a) "State publication" means any information originating in or produced by the authority of a state agency or at the total or partial expense of a state agency that the agency intends to distribute outside the agency, regardless of format or medium, source or copyright, license, or trademark.
  - (b) The term does not include information intended only for distribution to contractors or grantees of the agency, persons within the agency, or members of the public under [2-6-102](#) or information produced by a state agency that is intended strictly for internal administrative or operational purposes.

[Last noted date: 2007]

## **22-1-212. Administration of state publications depository library program -- rulemaking.**

- (1) The state library shall administer a state publications depository library program to identify, acquire, catalog, preserve, and provide access to state publications.
- (2) The state library may enter into contracts with other libraries to carry out the provisions of the state publications depository library program.
- (3) The state library commission shall adopt rules necessary to carry out the provisions of this part.

[Last noted date: 2007]

## **22-1-213. State publications -- notification and availability requirements.**

State agencies shall notify the state library of their state publications and shall make their state publications available to the state library as provided by rule. The state library shall, if requested by the agency, reimburse any state agency for state publications required to be made available when the quantity desired will necessitate unreasonable expense to the agency.

[Last noted date: 2007]

## **22-1-218. Exemptions.**

- (1) This part does not apply to:
  - (a) the state law library in connection with the collection described under [22-1-501](#);
  - (b) the code commissioner in connection with duties under Title 1, chapter 11, as amended; and
  - (c) the legislative services division in connection with duties under [5-11-203](#), as amended; and
  - (d) the Montana university system.
- (2) The state library may, at its option and without causing the university system to incur expense, collect, catalog, and make available selected publications of units of the Montana university system.

[Last noted date: 2007]

## **22-1-219. Permanent public access to state publications.**

The state library shall routinely notify depository libraries of recently acquired state publications. The state library shall coordinate with state agencies and depository libraries to ensure permanent public access to state

publications. The state library shall offer state publications that it removes from its collection to the Montana historical society, which shall determine which state publications must be preserved as provided for in [22-3-203](#).  
[Last noted date: 2007]

#### **22-1-225. Montana state library trust — interest retention.**

- (1) There is an account in the governmental fund category state special revenue fund type to be known as the Montana state library trust, to be used as provided in [22-1-226](#).
- (2) Interest and earnings of the account must be retained by the account.

[Last noted date: 2001]

#### **22-1-226. Use of Montana state library trust.**

- (1) The principal of the Montana state library trust established in [22-1-225](#) is subject to investment by the board of investments in accordance with investment principles established for the investment of state funds in Title 17, chapter 6, part 2.
- (2) Unless otherwise provided by the donor, donations received pursuant to [22-1-103](#) must be placed in the Montana state library trust.
- (3) Interest earned on the principal of the Montana state library trust may be used for providing library service to Montanans, including those who, because of disability, cannot read standard print.
- (4) Revenue that is not expended on the service authorized in subsection (3) and that is not expended at the end of each fiscal year remains in the Montana state library trust for investment as provided in subsection (1).
- (5) The provisions of [17-2-108](#) that require the expenditure of nongeneral fund money prior to the expenditure of general fund money do not apply to the expenditure of revenue made available to the library from the Montana state library trust.

[Last noted date: 2001]

### **Free Public Libraries**

#### **22-1-301. Definitions.**

Unless otherwise provided, the following definitions apply in this part:

- (1) "City" means city or town.
- (2) "Commission" means the state library commission.
- (3) "Public library" means a library created under [22-1-303](#) through [22-1-317](#) that provides library services to the public by means of central facilities, branch facilities, or bookmobiles.
- (4) "State multilibrary card" means a card that is issued to a Montana resident by a public library created under Title 7 or under [22-1-303](#) and that may be used for library services in every public library in the state.

[Last noted date: 1991]

#### **22-1-302. Purpose.**

It is the purpose of this part to encourage the establishment, adequate financing, and effective administration of free public libraries in this state to give the people of Montana the fullest opportunity to enrich and inform themselves through reading.

[Last noted date: 1967]

#### **22-1-303. Creation of public library.**

A public library may be established in any county or city in any of the following ways:

- (1) The governing body of any county or city desiring to establish and maintain a public library may pass and enter upon its minutes a resolution to the effect that a free public library is established under the provision of Montana laws relating to public libraries.
- (2) A public library may be established by a petition that is signed by not less than 10% of the resident taxpayers whose names appear upon the last completed assessment roll of the city or

county and that is filed with the governing body requesting the establishment of a public library. The governing body of a city or county shall set a time of meeting at which it may by resolution establish a public library. The governing body shall give notice of the contemplated action in a newspaper of general circulation for 2 consecutive weeks giving the date and place of the meeting at which the contemplated action is proposed to be taken.

(3)

- (a) Upon a petition being filed with the governing body and signed by not less than 5% of the resident taxpayers of any city or county requesting an election, the governing body shall submit to a vote of the qualified electors at the next general election the question of whether a free public library is to be established.
- (b) If a petition is submitted for a city, the petition must be signed by resident taxpayers of the city.
- (c) If a petition is submitted to the county commissioners of a county asking for the establishment of a county library, the petition must be signed by resident taxpayers of the county who reside outside the corporate limits of an incorporated city that is located in the county and that may already have established a free public library for the city.
- (d) If the petition specifically asks that a special election be called and the petition is signed by 35% of the resident freeholders affected by the petition, then the governing body shall, upon receipt of the petition, immediately set a date for a special election. The special election must be held in conjunction with a regular or primary election.
- (e) If at the election a majority of the electors voting on the question vote in favor of the establishment of a library, the governing body shall immediately take the necessary steps to establish and maintain the library or to contract with any city or county for library service to be rendered to the inhabitants of the city or county.

[Last noted date: 1995]

#### **22-1-304. Tax levy -- special library fund -- bonds.**

- (1) Subject to [15-10-420](#), the governing body of a city or county that has established a public library may levy in the same manner and at the same time as other taxes are levied a tax in the amount necessary to maintain adequate public library service.
- (2)
  - (a) The governing body of a city or county may by resolution submit the question of imposing a tax levy to a vote of the qualified electors at an election as provided in [15-10-425](#). The resolution must be adopted at least 75 days prior to the election at which the question will be voted on.
  - (b) Upon a petition being filed with the governing body and signed by not less than 5% of the resident taxpayers of any city or county requesting an election for the purpose of imposing a mill levy, the governing body shall submit to a vote of the qualified electors at the next election or at a special election, as provided in [15-10-425](#), the question of imposing the mill levy. The petition must be delivered to the governing body at least 90 days prior to the election at which the question will be voted on.
- (3) The proceeds of the tax constitute a separate fund called the public library fund and may not be used for any purpose except those of the public library.
- (4) Money may not be paid out of the public library fund by the treasurer of the city or county except by order or warrant of the board of library trustees.
- (5) Bonds may be issued by the governing body in the manner prescribed by law for the following purposes:
  - (a) building, altering, repairing, furnishing, or equipping a public library or purchasing land for the library;
  - (b) buying a bookmobile or bookmobiles; and
  - (c) funding a judgment against the library.

[Last noted date: 2005]

#### **22-1-305. Library depreciation reserve fund authorized.**

The governing body of any city or county or a combination of city and county in Montana may establish a library depreciation reserve fund for the replacement and acquisition of property, capital improvements, and equipment necessary to maintain and improve city, county, or city-county library services.



[Last noted date: 1975]

### **22-1-306. Moneys for library depreciation reserve fund.**

Moneys for the library depreciation reserve fund are those funds which have been allocated to the library in any year but which have not been expended by the end of the year. Such moneys include but are not limited to city or county or city-county appropriations, federal revenue sharing funds, and public and private grants.

[Last noted date: 1975]

### **22-1-307. Investment of fund.**

The moneys held in the library depreciation reserve fund may be invested as provided by law. All interest earned on the fund must be credited to the library depreciation reserve fund.

[Last noted date: 1975]

### **22-1-308. Public library — board of trustees.**

- (1) Upon the establishment of a public library under the provisions of this part, the mayor, with the advice and consent of the city council or city commissioners, shall appoint a board of trustees for the city library and the chairman of the board of county commissioners, with the advice and consent of said board, shall appoint a board of trustees for the county library.
- (2) The library board shall consist of five trustees. Not more than one member of the governing body shall be, at any one time, a member of such board.
- (3) Trustees shall serve without compensation, but their actual and necessary expenses incurred in the performance of their official duties may be paid from library funds.
- (4) Trustees shall hold their office for 5 years from the date of appointment and until their successors are appointed. Initially, appointments shall be made for 1-, 2-, 3-, 4-, and 5-year terms. Annually thereafter, there shall be appointed before July 1 of each year in the same manner as the original appointments for a 5-year term, a trustee to take the place of the retiring trustee. Trustees shall serve no more than two full terms in succession.
- (5) Following such appointments, in July of each year, the trustees shall meet and elect a chairman and such other officers as they deem necessary, for 1-year terms. Vacancies in the board of trustees shall be filled for the unexpired term in the same manner as original appointments.

[Last noted date: 1967]

### **22-1-309. Trustees — powers and duties.**

The library board of trustees shall have exclusive control of the expenditure of the public library fund, of construction or lease of library buildings, and of the operation and care of the library. The library board of trustees of every public library shall:

- (1) adopt bylaws and rules for its own transaction of business and for the government of the library, not inconsistent with law;
- (2) establish and locate a central public library and may establish branches thereof at such places as are deemed necessary;
- (3) have the power to contract, including the right to contract with regions, counties, cities, school districts, educational institutions, the state library, and other libraries, to give and receive library service, through the boards of such regions, counties, and cities and the district school boards, and to pay out or receive funds to pay costs of such contracts;
- (4) have the power to acquire, by purchase, devise, lease or otherwise, and to own and hold real and personal property in the name of the city or county or both, as the case may be, for the use and purposes of the library and to sell, exchange or otherwise dispose of property real or personal, when no longer required by the library and to insure the real and personal property of the library;
- (5) pay necessary expenses of members of the library staff when on business of the library;
- (6) prepare an annual budget, indicating what support and maintenance of the public library will be required from public funds, for submission to the appropriate agency of the governing body. A separate budget request shall be submitted for new construction or for capital improvement of existing library property.



- (7) make an annual report to the governing body of the city or county on the condition and operation of the library, including a financial statement. The trustees shall also provide for the keeping of such records as shall be required by the Montana state library in its request for an annual report from the public libraries and shall submit such an annual report to the state library.
- (8) have the power to accept gifts, grants, donations, devises, or bequests of property, real or personal, from whatever source and to expend or hold, work, and improve the same for the specific purpose of the gift, grant, donation, devise, or bequest. These gifts, grants, donations, devises, and bequests shall be kept separate from regular library funds and are not subject to reversion at the end of the fiscal year.
- (9) exercise such other powers, not inconsistent with law, necessary for the effective use and management of the library.

[Last noted date: 1967]

#### **22-1-310. Chief librarian — personnel — compensation.**

The board of trustees of each library shall appoint and set the compensation of the chief librarian who shall serve as the secretary of the board and shall serve at the pleasure of the board. With the recommendation of the chief librarian, the board shall employ and discharge such other persons as may be necessary in the administration of the affairs of the library, fix and pay their salaries and compensation, and prescribe their duties.

[Last noted date: 1967]

#### **22-1-311. Use of library — privileges.**

Every library established under the provisions of this part shall be free to the use of the inhabitants of the city or the county supporting such library. The board may exclude from the use of the library any and all persons who shall willfully violate the rules of the library. The board may extend the privileges and use of the library to persons residing outside of the city or county upon such terms and conditions as it may prescribe by its regulations.

[Last noted date: 1967]

#### **22-1-312. Cooperation and merger.**

Library boards of trustees, boards of other educational institutions, library agencies, and local political subdivisions are hereby empowered to cooperate, merge, or combine in providing library service.

[Last noted date: 1967]

#### **22-1-313. Existing tax-supported libraries — notification — exemption from county taxes.**

After the establishment of a county free library as provided in this part, the governing body of any city which has an existing tax-supported public library may notify the board of county commissioners that such city does not desire to be a part of the county library system. Such notification shall exempt the property in such city from liability for taxes for county library purposes.

[Last noted date: 1967]

#### **22-1-314. Continued existence of all public libraries.**

All public libraries heretofore established shall continue in existence, subject to the changes in administration provided herein.

[Last noted date: 1947]

#### **22-1-315. City library may assume functions of county library.**

- (1) Instead of establishing a separate county free library, the board of county commissioners may enter into a contract with the board of library trustees or other authority in charge of the free

- public library of any incorporated city, and the board of library trustees or other authority in charge of such free public library is hereby authorized to make such a contract.
- (2) Such contract may provide that the free public library of such incorporated city shall assume the functions of a county free library within the county with which such contract is made, and the board of county commissioners may agree to pay out of the county free library fund into the library fund of such incorporated city such sum as may be agreed upon.
  - (3) Either party to such contract may terminate the same by giving 6 months' notice of intention to do so.

[Last noted date: 1947]

#### **22-1-316. Joint city-county library.**

- (1) A county and any city or cities within the county, by action of their respective governing bodies, may join in establishing and maintaining a joint city-county library under the terms of a contract agreed upon by all parties.
- (2) The expenses of a joint city-county library must be apportioned between or among the county and cities on the basis agreed upon in the contract.
- (3) Subject to [15-10-420](#), the governing body of any city or county entering into a contract may levy a special tax as provided in [22-1-304](#) for the establishment and operation of a joint city-county library.
- (4) The treasurer of the county or of a participating city within the county, as provided in the contract, has custody of the funds of the joint city-county library, and the other treasurers of the county or cities joining in the contract shall transfer quarterly to the designated treasurer all money collected for the joint city-county library.
- (5) The contract must provide for the disposition of property upon dissolution of the joint city-county library.

[Last noted date: 1999]

#### **22-1-317. City-county library — board of trustees.**

- (1) A joint city-county library shall be governed by a board of trustees composed of five members chosen as specified in the contract, with terms not to exceed 5 years.
- (2) Trustees shall serve no more than two full terms in succession.
- (3) Trustees shall serve without compensation, but their actual and necessary expenses incurred in the performance of their official duties may be paid from library funds.
- (4) Trustees shall meet and elect a chairman and such other officers as they consider necessary for 1-year terms.
- (5) The board of trustees shall have the same powers and duties as the board of trustees of a city library or a county library.

[Last noted date: 1977]

#### **22-1-325. Short title.**

Sections [22-1-325](#) through [22-1-331](#) may be cited as the "Information Access Montana Act".

[Last noted date: 1989]

#### **22-1-326. State aid to public libraries.**

- (1) As used in [22-1-326](#) through [22-1-331](#), "public library" means a library created under Title 7 or under [22-1-301](#) through [22-1-317](#).
- (2) As provided in [22-1-325](#) through [22-1-329](#), the commission shall administer state aid to public libraries and public library districts created and operated under part 7 of this chapter. The purposes of state aid are to:
  - (a) broaden access to existing information by strengthening public libraries and public library districts;
  - (b) augment and extend services provided by public libraries and public library districts; and
  - (c) permit new types of library services based on local need.

- (3) Money appropriated for the purposes of this section may not be used to supplant general operating funds of recipient public libraries or public library districts. The commission may withhold a distribution to a library or district that receives less support from a mill levy or local government appropriation than its average for the preceding 3 fiscal years if the decrease may reasonably be linked to money received or expected to be received under [22-1-325](#) through [22-1-329](#).

[Last noted date: 2005]

### **22-1-327. State aid -- per capita -- per square mile.**

The commission shall distribute grants to public libraries and public library districts on a per capita and per square mile basis.

[Last noted date: 2005]

### **22-1-328. State interlibrary loan program — reimbursement — eligibility.**

- (1) Each Montana library eligible for reimbursement under this section for participation in the statewide interlibrary loan program must be reimbursed according to the rules adopted by the commission.
- (2) Libraries eligible for interlibrary loan reimbursement under this section include public libraries, libraries operated by public schools or school districts, libraries operated by public colleges or universities, libraries operated by public agencies for institutionalized persons, and libraries operated by nonprofit, private medical, educational, or research institutions.
- (3) Notwithstanding subsections (1) and (2), the following types of interlibrary loans are not eligible for reimbursement:
- (a) a loan between public school libraries located within the same public school district;
  - (b) a loan between an elementary school library and a high school library located within school districts with overlapping school district boundaries;
  - (c) a loan between libraries administered by a public or private nonprofit college or university; and
  - (d) a loan between libraries administered by a public library.

[Last noted date: 1999]

### **22-1-329. State multilibrary card.**

The commission shall develop a program to allow Montana libraries to issue to residents a state multilibrary card as defined in [22-1-301](#).

[Last noted date: 1989]

### **22-1-330. Commission rulemaking authority.**

The commission may adopt rules and procedures for:

- (1) the distribution of state aid to public libraries and public library districts on a per capita and per square mile basis;
- (2) issuance of state multilibrary cards;
- (3) reimbursement for interlibrary loan lending;
- (4) distribution of base grants provided for in [22-1-331](#); and
- (5) the composition of the library federation board of trustees, as provided in [22-1-404](#).

[Last noted date: 2005]

### **22-1-331. Base grants.**

The commission shall provide a base grant for each public library to support the cooperative activities and services of the six library federations in the state.

[Last noted date: 1989]

## Library Federations

### 22-1-401. Policy.

It is the policy of the legislature to encourage the most efficient delivery of library services to the people of Montana. To that end the state should be divided into regions within which libraries desiring to participate in the distribution of such state funding to libraries as may be available from time to time shall organize into library federations to pool resources and information and avoid duplication of effort.

[Last noted date: 1974]

### 22-1-402. Library federations -- definition.

- (1) A library federation is a combination of libraries serving a multicounty, multicity, or city-county area within a federation area designated by the state library commission. Any other public, school, special, college, or university library or town, city, or county within the federation area may participate in a federation.
- (2) The governing body of any library may agree to participate in the federation. The participating entities may retain the autonomy over their respective libraries.
- (3) The expense of providing library services for the library federation must be based on funds received from the state or participating libraries.
- (4) A participating entity may withdraw from a federation according to the terms for withdrawal provided in the federation's bylaws.
- (5) A federation may contract with other federations, libraries, or the state library to provide federation services.

[Last noted date: 2005]

### 22-1-404. Board of trustees -- coordinator.

- (1) In a library federation, there must be a board of trustees, with advisory powers only, appointed according to the federation's bylaws. The state library commission, provided for in [22-1-101](#), shall adopt rules governing the composition of the federation board of trustees. A majority of the members of each federation board of trustees must be trustees of a public library, as defined in [22-1-326](#).
- (2) The federation membership shall appoint a coordinator of the federation who shall serve as a nonvoting member of the federation board of trustees.

[Last noted date: 2005]

### 22-1-405. Boards of trustees — authority — resolution of disagreements.

- (1) The board of trustees of a library federation shall act as an advisor to the participating libraries and their boards of trustees.
- (2) Control over the budgets and administrative policies of participating libraries shall remain in their boards of trustees as provided in [22-1-309](#).
- (3) Any disagreement among participants in a library federation regarding the apportionment of funds or grants received from the state library commission shall be resolved by the state library commission.

[Last noted date: 1974]

### 22-1-412. Purpose.

It is the purpose of [22-1-413](#) and this section to establish a program whereby state funds may be appropriated to the Montana state library commission to provide the benefits of quality public library service to all residents of Montana by developing and strengthening local public libraries through library federations as defined in [22-1-402](#).

[Last noted date: 1997]

## **22-1-413. Administration by Montana state library commission.**

The Montana state library commission must receive and shall administer the appropriation for state funding to public library federations. The commission shall allocate the appropriation among grant programs and shall allocate funds among federations according to formulas for distribution as the commission establishes in rules adopted pursuant to [22-1-103](#). Federations receiving state funds from the commission shall submit annual plans for the expenditure of state funds and report annually to the commission concerning the progress of the various projects for which state funding was received. The reports must contain an accounting for all state funds received.

[Last noted date: 2001]

## **Law Library**

### **22-1-501. State law library created.**

The library formerly known as a department of the state library of Montana and called "the law library" is a separate and distinct library designated the "state law library of the state of Montana". The collections of laws, decisions of courts, law reports, textbooks, legal periodicals, and miscellaneous books and journals together with pamphlets, papers, maps, charts, and manuscripts in the law library or belonging to the law library or acquired by or donated to the law library constitute the law library, and the title to all of the property constituting the law library must be in the state of Montana, subject to the custody and control of the library board established in [22-1-502](#).

[Last noted date: 1991]

### **22-1-502. Location — control by board of trustees.**

The state law library of the state of Montana shall be located in Helena, Montana, and shall be in the immediate custody and subject to the control of a board of trustees consisting of the chief justice and the justices of the supreme court of the state of Montana.

[Last noted date: 1981]

### **22-1-503. Authority of board.**

The powers and duties of said board are as follows:

- (1) to make rules, not inconsistent with law, for the government of the board and for the government and administration of the state law library, including rules designating when and for what periods of time the library shall be open to the public and the office hours of the library;
- (2) to appoint a librarian and prescribe the duties of such librarian when not otherwise provided for by law;
- (3) to sell or exchange duplicate copies of books and pay the moneys arising therefrom into the state law library fund;
- (4) to see that the books and other properties of the library are maintained in good order and repair and are protected from theft or injury;
- (5) to draw from the state treasury, at any time when needed for the legitimate expenses in maintaining and operating the library and acquiring books, reports, journals, and other works and properties therefor, including complete sets of statutory laws and codified laws of the United States of America, of the several states of the union, and of other jurisdictions, any moneys in the fund and available for such purposes;
- (6) to establish such lawful relations and working arrangements with the library of congress of the United States, with the copyright office therein, and with the superintendent of documents of the United States as may be for the benefit and advantage of the state law library and promote the acquisition of books and other works from such sources as may be useful to those resorting to the facilities of the state law library.

[Last noted date: 1983])

## **22-1-504. Duties of librarian -- library staff state employees.**

- (7) The librarian shall develop and maintain an adequate collection and services to fulfill the needs of library users and shall establish procedures for the maintenance and control of the collection.
- (8) The members of the staff of the state law library, except the librarian, are employees of the judicial branch of state government, are subject to classification and compensation as determined by the judicial branch personnel plan adopted by the supreme court under [3-1-130](#), and must receive state employee benefits and expenses as provided in Title 2, chapter 18.

[Last noted date: 2001]

## **22-1-505. Use of library.**

The state law library shall be maintained and operated for the use of the members of the supreme court, the members of the legislature, the several officers of the senate and of the house of representatives, for state officers and employees, for members of the bar of the supreme court of Montana, for members of the bar of supreme courts of other states while in attendance before the supreme court of Montana, and members of the general public agreeing to the rules established by the librarian.

[Last noted date: 1977]

## **22-1-506. Liability for injury to books or failure to return.**

Every person who defaces, tears, or otherwise injures any book or other work or who fails to return any book taken by him is liable to the state in three times the value thereof if such book is not replaced by a new one or another book of identical title, in good order and condition; and no statute of limitations shall ever be effective against the claim of the state under this section.

[Last noted date: 1949]

## **Interstate Library Compact**

### **22-1-601. Library compact.**

The Interstate Library Compact is hereby approved, enacted into law, and entered into by the state of Montana, which compact is in full as follows:

#### **INTERSTATE LIBRARY COMPACT**

#### **Article I. Policy and Purpose**

Because the desire for the services provided by libraries transcends governmental boundaries and can most effectively be satisfied by giving such services to communities and people regardless of jurisdictional lines, it is the policy of the states party to this compact to cooperate and share their responsibilities; to authorize cooperation and sharing with respect to those types of library facilities and services which can be more economically or efficiently developed and maintained on a cooperative basis; and to authorize cooperation and sharing among localities, states, and others in providing joint or cooperative library services in areas where the distribution of population or of existing and potential library resources make the provision of library service on an interstate basis the most effective way of providing adequate and efficient service.

#### **Article II. Definitions**

As used in this compact:

- (1) "public library agency" means any unit or agency of local or state government operating or having power to operate a library;
- (2) "private library agency" means any nongovernmental entity which operates or assumes a legal obligation to operate a library;
- (3) "library agreement" means a contract establishing an interstate library district pursuant to this compact or providing for the joint or cooperative furnishing of library services.

#### **Article III. Interstate Library Districts**

- (1) Any one or more public library agencies in a party state in cooperation with any public library agency or agencies in one or more other party states may establish and maintain an interstate

- library district. Subject to the provisions of this compact and any other laws of the party states which pursuant hereto remain applicable, such district may establish, maintain, and operate some or all of the library facilities and services for the area concerned in accordance with the terms of a library agreement therefor. Any private library agency or agencies within an interstate library district may cooperate therewith, assume duties, responsibilities, and obligations thereto, and receive benefits therefrom as provided in any library agreement to which such agency or agencies become party.
- (2) Within an interstate library district, and as provided by a library agreement, the performance of library functions may be undertaken on a joint or cooperative basis or may be undertaken by means of one or more arrangements between or among public or private library agencies for the extension of library privileges to the use of facilities or services operated or rendered by one or more of the individual library agencies.
  - (3) If a library agreement provides for joint establishment, maintenance, or operation of library facilities or services by an interstate library district, such district shall have power to do any one or more of the following in accordance with such library agreement:
    - (a) undertake, administer, and participate in programs or arrangements for:
      - (i) securing, lending, or servicing books and other publications, any other materials suitable to be kept or made available by libraries, or library equipment; or
      - (ii) for the dissemination of information about libraries, the value and significance of particular items therein, and the use thereof;
    - (b) accept for any of its purposes under this compact any and all donations and grants of money, equipment, supplies, materials, and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof or interstate agency or from any institution, person, firm, or corporation and receive, utilize, and dispose of the same;
    - (c) operate mobile library units or equipment for the purpose of rendering bookmobile service within the district;
    - (d) employ professional, technical, clerical, and other personnel and fix terms of employment, compensation, and other appropriate benefits; and where desirable, provide for the in-service training of such personnel;
    - (e) sue and be sued in any court of competent jurisdiction;
    - (f) acquire, hold, and dispose of any real or personal property or any interest or interests therein as may be appropriate to the rendering of library service;
    - (g) construct, maintain, and operate a library, including any appropriate branches thereof;
    - (h) do such other things as may be incidental to or appropriate for the carrying out of any of the foregoing powers.

#### **Article IV. Interstate Library Districts, Governing Board**

- (1) An interstate library district which establishes, maintains, or operates any facilities or services in its own right shall have a governing board which shall direct the affairs of the district and act for it in all matters relating to its business. Each participating public library agency in the district shall be represented on the governing board which shall be organized and conduct its business in accordance with provision therefor in the library agreement. But in no event shall a governing board meet less often than twice a year.
- (2) Any private library agency or agencies party to a library agreement establishing an interstate library district may be represented on or advise with the governing board of the district in such manner as the library agreement may provide.

#### **Article V. State Library Agency Cooperation**

Any two or more state library agencies of two or more of the party states may undertake and conduct joint or cooperative library programs, render joint or cooperative library services, and enter into and perform arrangements for the cooperative or joint acquisition, use, housing, and disposition of items or collections of materials which, by reason of expense, rarity, specialized nature, or infrequency of demand therefor would be appropriate for central collection and shared use. Any such programs, services, or arrangements may include provision for the exercise on a cooperative or joint basis of any power exercisable by an interstate library

district, and an agreement embodying any such program, service, or arrangement shall contain provisions covering the subjects detailed in Article VI of this compact for interstate library agreements.

## **Article VI. Library Agreements**

- (1) In order to provide for any joint or cooperative undertaking pursuant to this compact, public and private library agencies may enter into library agreements. Any agreement executed pursuant to the provisions of this compact shall, as among the parties to the agreement:
  - (a) detail the specific nature of the services, programs, facilities, arrangements, or properties to which it is applicable;
  - (b) provide for the allocation of costs and other financial responsibilities;
  - (c) specify the respective rights, duties, obligations, and liabilities of the parties;
  - (d) set forth the terms and conditions for duration, renewal, termination, abrogation, disposal of joint or common property, if any, and all other matters which may be appropriate to the proper effectuation and performance of the agreement.
- (2) No public or private library agency shall undertake to exercise, itself or jointly with any other library agency, by means of a library agreement, any power prohibited to such agency by the constitution or statutes of its state.
- (3) No library agreement shall become effective until filed with the compact administrator of each state involved and approved in accordance with Article VII of this compact.

## **Article VII. Approval of Library Agreements**

- (1) Every library agreement made pursuant to this compact shall, prior to and as a condition precedent to its entry into force, be submitted to the attorney general of each state in which a public library agency party thereto is situated, who shall determine whether the agreement is in proper form and compatible with the laws of his state. The attorneys general shall approve any agreement submitted to them unless they shall find that it does not meet the conditions set forth herein and shall detail in writing addressed to the governing bodies of the public library agencies concerned the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within 90 days of its submission shall constitute approval thereof.
- (2) In the event that a library agreement made pursuant to this compact shall deal in whole or in part with the provision of services or facilities with regard to which an officer or agency of the state government has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its entry into force, be submitted to the state officer or agency having such power of control and shall be approved or disapproved by him or it as to all matters within his or its jurisdiction in the same manner and subject to the same requirements governing the action of the attorneys general pursuant to paragraph (1) of this article. This requirement of submission and approval shall be in addition to and not in substitution for the requirement of submission to and approval by the attorneys general.

## **Article VIII. Other Laws Applicable**

Nothing in this compact or in any library agreement shall be construed to supersede, alter, or otherwise impair any obligation imposed on any library by otherwise applicable law nor to authorize the transfer or disposition of any property held in trust by a library agency in a manner contrary to the terms of such trust.

## **Article IX. Appropriations and Aid**

- (1) Any public library agency party to a library agreement may appropriate funds to the interstate library district established thereby in the same manner and to the same extent as to a library wholly maintained by it and, subject to the laws of the state in which such public library agency is situated, may pledge its credit in support of an interstate library district established by the agreement.
- (2) Subject to the provisions of the library agreement pursuant to which it functions and the laws of the states in which such district is situated, an interstate library district may claim and receive any state and federal aid which may be available to library agencies.



## **Article X. Compact Administrator**

Each state shall designate a compact administrator with whom copies of all library agreements to which his state or any public library agency thereof is party shall be filed. The administrator shall have such other powers as may be conferred upon him by the laws of his state and may consult and cooperate with the compact administrators of other party states and take such steps as may effectuate the purposes of this compact. If the laws of a party state so provide, such state may designate one or more deputy compact administrators in addition to its compact administrator.

## **Article XI. Entry into Force and Withdrawal**

- (1) This compact shall enter into force and effect immediately upon its enactment into law by any two states. Thereafter, it shall enter into force and effect as to any other state upon the enactment thereof by such state.
- (2) This compact shall continue in force with respect to a party state and remain binding upon such state until 6 months after such state has given notice to each other party state of the repeal thereof. Such withdrawal shall not be construed to relieve any party to a library agreement entered into pursuant to this compact from any obligation of that agreement prior to the end of its duration as provided therein.

## **Article XII. Construction and Severability**

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

[Last noted date: 1967]

### **22-1-602. Executive officer of state library commission as administrator.**

The executive officer of the state library commission shall be the compact administrator of the Interstate Library Compact.

[Last noted date: 1967]

## **Public Library Districts**

### **22-1-701. Public library districts -- purpose -- territory.**

- (1) The purpose of this part is to provide a method for:
  - (a) establishing, equipping, administering, and funding public libraries; and
  - (b) contracting for library services from existing public libraries.
- (2) A public library district may contain the entire territory of a county, the territory of part of a county, or territory in more than one county. A public library district may include incorporated municipalities within a county.
- (3) The territory included in a public library district must contain a taxable value of at least \$5 million.

[Last noted date: 2001]

### **22-1-702. Creation or enlargement of public library district.**

- (1) Proceedings for the creation or enlargement of a public library district or the conversion of a public library to a public library district may be initiated by:
  - (a) a petition signed by not less than 15% of the qualified electors who reside within the proposed district or the area to be added to an existing district; or

- (b) a resolution of intent adopted by the county governing body, calling for the creation of a district.
- (2) The petition must contain:
  - (a) the boundaries of the proposed public library district;
  - (b) a map showing the boundaries;
  - (c) subject to [15-10-420](#), the proposed maximum property tax mill levy that could be levied on property owners within the district for the operation of the district; and
  - (d) the proposed number of members on the board of trustees. The number of members must be five or seven.
- (3) When the territory to be included in the proposed public library district lies in more than one county, a petition must be presented to the governing body of each county in which the territory lies. Each petition must be signed by not less than 15% of the qualified electors of the territory within the county proposed for inclusion in the district.
- (4) Upon receipt of a petition to create a public library district, the county clerk shall examine the petition and within 15 days either reject the petition if it is insufficient under the provisions of subsection (1), (2), or (3) or certify that the petition is sufficient and present it to the county governing body at its next meeting.
- (5) The text of the petition must be published as provided in [7-1-2121](#) in each county in which territory of the proposed public library district lies.
- (6) At a hearing on the proposed public library district, the county governing body shall hear testimony:
  - (a) of all interested persons on whether a district should be created;
  - (b) regarding the proposed boundary, the property tax mill levy, and the number of members of the board of trustees; and
  - (c) on any other matter relating to the petition.
- (7) After the hearing, if the county governing body determines that the proposed public library district should be created, it shall by resolution:
  - (a) set the boundaries of the proposed district;
  - (b) set the maximum mill levy for the proposed district;
  - (c) set the number of members to be on the board of trustees; and
  - (d) call for an election on the question of whether to create the district. The election may be:
    - (i) held in conjunction with a regular or primary election; or
    - (ii) conducted by mail ballot in accordance with the provisions of Title 13, chapter 19.

[Last noted date: 2005]

### **22-1-703. Election on creation of district.**

- (1) The election on the question of whether to create a public library district must be conducted as provided in Title 13.
- (2) Only qualified electors residing within the proposed public library district may vote on the question of whether to create the district.
- (3) The question of creating a public library district must be submitted to the electors in substantially the following form:

☐ FOR the creation of a public library district that may levy not more than ... mills of property tax for the operation of the district.

☐ AGAINST the creation of a public library district.

[Last noted date: 2001]

### **22-1-704. Formation of public library district -- appointment of initial board of trustees.**

- (1) If a majority of the votes cast at the election in the territory of each county included in the proposed public library district approve the formation of the district, the governing body of each county shall, within 10 days of the receipt of the official canvass of the result, certify that the district is formed.
- (2) Within 30 days after the certification of the formation of the public library district, the governing body of each county with territory included in the district shall jointly appoint the initial members

of the district's board of trustees. The members shall serve until their successors are elected and qualified.

[Last noted date: 2001]

## **22-1-705. Consolidation of existing public libraries and public library districts.**

- (1)
  - (a) If all or part of the territory served by an existing public library, as defined in [22-1-326](#), is included within the boundaries of a public library district, the governing body of each county with territory included in the district shall notify the governing body of the city or county that established the public library that the territory served by the library is included in the district boundaries. The governing body of the city or county that established the public library shall hold a public hearing on the question of whether the territory served by the library should be included in the district. If the governing body determines that the territory served by the public library should be consolidated into the district, it shall adopt a resolution, following the public hearing, to that effect. If the governing body of the city or county that established the public library determines that the territory served by the library should not be included in the district, it shall adopt a resolution to that effect and the boundaries of the district must be adjusted to exclude the territory served by the public library.
  - (b) Any existing bonded indebtedness against the territory served by the public library or the library district remains the indebtedness of the original territory and must be paid by levies on the original territory.
- (2) The territory of an existing public library district may be consolidated into a contiguous district upon the adoption of a resolution, following a public hearing, by the board of trustees of each district. The governing board of the county containing the largest percentage of territory in the district shall appoint the board of trustees for the consolidated district. The appointed trustees shall serve until their successors are elected, in accordance with the provisions of [22-1-706](#).

[Last noted date: 2005]

## **22-1-706. Election of board of trustees -- compensation -- removal -- single-member trustee districts.**

- (1) After appointment of the initial members of the board of trustees, all members must be elected by the electors of the public library district.
- (2) The election of members to the board of trustees must be held in conjunction with the annual school elections held pursuant to [20-3-304](#).
- (3)
  - (a) A candidate for the office of trustee of the public library district must be a resident of the district and must be nominated by petition, signed by at least five electors of the district and filed with the office of the election administrator not earlier than 135 days or later than 75 days prior to the election day.
  - (b) If the district lies in more than one county, the petition for nomination must be presented to the election administrator whose county contains the largest percentage of territory in the district.
- (4) If the number of candidates is equal to or less than the number of positions to be elected, the election administrator may cancel the election in accordance with [13-1-304](#). If an election is not held, the county governing body shall declare elected by acclamation each candidate who filed a nomination petition for a position. If a nomination petition is not filed for an office, the county governing body of the county containing the largest percentage of the territory in the public library district shall appoint a member to fill the term. A person appointed pursuant to this subsection has the same term and obligations as a person elected to fill the office.
- (5) The term of office of an elected board member begins on the date that the board member is elected and qualified. The term of office of an elected member is 4 years, except that a simple majority of the members of the first elected board shall serve a term of 2 years, with the minority of the board serving terms of 4 years. The members serving 2-year terms must be selected by lot.
- (6) A vacancy in the office of a member must be filled by appointment by the remaining members of the board. The term of the appointed member expires upon the election and qualification of

an elected successor or upon the election of a member to fill the unexpired term of the vacant office. The election must be held at the next scheduled school election held pursuant to [20-3-304](#).

- (7) Members of the board of trustees serve without compensation.
- (8) A trustee may be removed from office by a court of competent jurisdiction pursuant to state law governing the removal of elected officials. If charges are brought against a trustee and if good cause is shown, the governing body of the county containing the largest percentage of territory in the public library district may suspend the trustee until the charges can be heard in a court of competent jurisdiction.
- (9)
  - (a) If the trustees determine that it is in the best interest of the electors of the public library district, they shall:
    - (i) propose the creation of a single-member trustee district plan with districts that are as compact in area and as equal in population as possible;
    - (ii) schedule and hold a public hearing on the plan; and
    - (iii) publish a notice of the public hearing as provided in [7-1-2121](#).
  - (b) After the public hearing is held, the trustees may amend, revise, approve, or disapprove the proposed plan. If the plan is adopted, the trustees shall publish notice of its adoption as provided in [7-1-2121](#).
  - (c) All successors to the board of trustees must be elected in accordance with the adopted single-member trustee district plan, and the election of each member must be submitted to the electors of the trustee district in which the candidate resides.

**[Last noted date: 2001]**

## **22-1-707. Duties and powers of board of trustees.**

- (1) The board of trustees of a public library district shall:
  - (a) operate and maintain library property within the district and may conduct programs relating to libraries and make improvements to district property as the board considers appropriate;
  - (b) prepare annual budgets as required by the county governing body or bodies;
  - (c) pay necessary expenses of district staff members when on business of the district; and
  - (d) prepare and submit any records required by the Montana state library.
- (2) The board has all powers necessary for the betterment, operation, and maintenance of library property within the territory of the public library district, including establishing library locations. In the exercise of this general grant of powers, the board may:
  - (a)
    - (i) employ or contract with administrative, professional, or other personnel necessary for the operation of the district; or
    - (ii) contract with other entities to provide or receive library services and to pay out or receive funds for those library services;
  - (b) lease, purchase, or contract for the purchase of personal property, including property that after purchase constitutes a fixture on real property;
  - (c)
    - (i) lease, purchase, or contract for the purchase of buildings and facilities on lands controlled by the district and may own and hold title to the buildings and facilities and equip, operate, and maintain the buildings and facilities; or
    - (ii) receive by transfer, conditionally or otherwise, from a county or city, the ownership or control of a library building, with all or any part of its property, provided that any existing debt of the governing body transferring the interest tied to the property must remain an obligation of the governing body and may not become an obligation of the district;
  - (d) adopt by resolution bylaws and rules for the operation and administration of the district;
  - (e) subject to [15-10-420](#), establish a property tax mill levy for the operation of the district as provided in [22-1-708](#);
  - (f) with the concurrence of the county governing body or bodies, accept donations of land or facilities within the district to be used for district purposes;
  - (g) accept donations and devises of money or personal property;

- (h) establish a library depreciation reserve fund as authorized and described in [22-1-716](#); and
- (i) exercise other powers, not inconsistent with the law, necessary for the operation and management of the district.

[Last noted date: 2005]

#### **22-1-708. Public library district budget -- property tax levy.**

- (1) The board of trustees shall annually prepare a budget for the ensuing fiscal year and present the budget to the governing body of each county with territory in the public library district at the regular budget meetings as prescribed in Title 7, chapter 6, part 40, and certify the amount of money necessary for the operation of the district for the ensuing fiscal year.
- (2) Subject to [15-10-420](#), the county governing body shall, annually at the time of levying county taxes, fix and levy a tax on all taxable property within the public library district sufficient to raise the amount certified by the board of trustees and approved by the electors. The tax levied may not in any year exceed the maximum amount approved by the electorate in [22-1-703](#) or [22-1-709](#).

[Last noted date: 2001]

#### **22-1-709. Election to change maximum property tax mill levy.**

- (1) The maximum property tax mill levy authorized for the operation of a public library district may be changed by an election on the question of changing the maximum mill levy.
- (2) A vote on the question of raising or lowering the maximum property tax mill levy in the public library district may be initiated by:
  - (a) a petition signed by not less than 15% of the electorate of the district; or
  - (b) resolution of the board of trustees.
- (3) The petition must set forth the proposed new maximum mill levy for the operation of the district.
- (4) Upon receipt of a petition for a change in the maximum mill levy, certified by the county clerk as sufficient under this section, or upon receipt of a resolution for a change adopted by the board of trustees, the county governing body shall submit to the electorate of the public library district, at the next regular or primary election, a ballot question on changing the maximum mill levy. The election must be held as provided in Title 13. The question must be submitted to the electors of the district in substantially the following form:

☐ FOR changing the authorized maximum property tax mill levy for the operation of the public library district from .... to ....

☐ AGAINST changing the authorized maximum property tax mill levy for the operation of the public library district.

[Last noted date: 2001]

#### **22-1-710. Dissolution of public library district.**

- (1) A public library district may be dissolved after an election on the question of dissolving the district. The process of dissolving the district may be initiated by a petition of 15% of the electorate of the district or by a resolution of intent to dissolve the district adopted by either the board of trustees or the governing body of the county in which territory of the district is located.
- (2) Upon receipt of a petition that has been certified by the county clerk as sufficient under this section or upon adoption of a resolution of intent, the county governing body shall hold a public hearing on the question of dissolving the public library district. Notice of the hearing must be published as provided in [7-1-2121](#).
- (3) At the public hearing, the county governing body shall hear testimony of interested persons regarding the dissolution of the public library district. After the public hearing, the county governing body may either submit the question of dissolving the district to the electorate of the district or it may call for a public hearing on the question of altering the boundaries of the district. If the county governing body calls for a public hearing on the question of altering the boundaries of the district by the withdrawal of territory, it shall publish notice of the hearing as provided in [7-1-2121](#). The notice must state the boundaries of the area proposed to be

withdrawn from the district. After hearing testimony at the hearing, the county governing body may submit the question of either dissolving the district or altering the district by the withdrawal of specified territory from the district to the electorate of the district.

- (4) The question must be submitted by a resolution calling for an election on either dissolving the public library district or altering the boundaries of the district by the withdrawal of land from the district. The county governing body shall schedule the election in conjunction with any other regularly scheduled election. The election on the question must be conducted as provided in Title 13.
- (5) The question of withdrawal of territory under this section must be voted upon separately by the electorate of the territory to be withdrawn and the electorate of the balance of the territory of the public library district. The question fails unless a simple majority of those voting on the question in each of the two territories authorize altering the district boundary. If the question passes, the boundary alteration is effective the following January 1. If the question fails, the county governing body shall by resolution call for an election on the question of dissolving the district.

**[Last noted date: 2001]**

## **22-1-711. Effect of dissolution.**

- (1) If dissolution of a public library district is authorized by a majority of the electorate of the district, the county governing body shall order the dissolution and file the order with the county clerk. The dissolution is effective upon the earlier of the following:
  - (a) 6 months after the date of the filing of the order; or
  - (b) certification by the board of trustees that all debts and obligations of the district have been paid, discharged, or irrevocably settled.
- (2)
  - (a) If debts or obligation of the public library district remain unsatisfied after the dissolution of the district, the county governing body shall, subject to [15-10-420](#) and for as long as necessary, levy a property tax in an amount not to exceed the amount authorized for the district, on all taxable property that is in the territory formerly comprising the district, to be used to discharge the debts of the former district.
  - (b) If the electors of the district lowered the maximum amount to be levied for the operation of the district within 2 calendar years prior to the election authorizing the dissolution, the county governing body may, subject to [15-10-420](#), levy a property tax not to exceed the levy authorized prior to the reduction of the maximum levy for the discharge of the district's obligations.
- (3) Any asset of the public library district remaining after all debts and obligations have been discharged becomes the property of the county in which the asset is located.

**[Last noted date: 2001]**

## **22-1-716. Library depreciation reserve fund.**

- (1) The trustees of a public library district may establish a library depreciation reserve fund for the replacement and acquisition of property, capital improvements, and equipment necessary to maintain and improve district library services.
- (2) Money for the library depreciation reserve fund is those funds that have been allocated for district library services in any year but which have not been expended by the end of the year. The money includes but is not limited to county appropriations, federal reserve sharing funds, and public and private grants.
- (3) The money held in the library depreciation reserve fund may be invested as provided by law. All interest earned on the fund must be credited to the library depreciation reserve fund.

**[Last noted date: 2005]**



## **Library Records Confidentiality Act**

### **22-1-1101. Short title.**

This part may be cited as the "Montana Library Records Confidentiality Act".

[Last noted date: 1985]

### **22-1-1102. Definitions.**

As used in [22-1-1103](#), the following definitions apply:

- (1) "Library" means a library that is established by the state, a county, city, town, school district, or a combination of those units of government, a college or university, or any private library open to the public.
- (2) "Library records" means any document, record, or any other method of storing information retained, received, or generated by a library that identifies a person as having requested, used, or borrowed library material or other records identifying the names or other personal identifiers of library users. Library records does not include nonidentifying material that may be retained for the purpose of studying or evaluating the circulation of library materials in general or records that are not retained or retrieved by personal identifier.

[Last noted date: 1985]

### **22-1-1103. Nondisclosure of library records.**

- (1) No person may release or disclose a library record or portion of a library record to any person except in response to:
  - (a) a written request of the person identified in that record, according to procedures and forms giving written consent as determined by the library; or
  - (b) an order issued by a court of competent jurisdiction, upon a finding that the disclosure of such record is necessary because the merits of public disclosure clearly exceed the demand for individual privacy.
- (2) A library is not prevented from publishing or making available to the public reasonable statistical reports regarding library registration and book circulation if those reports are presented so that no individual is identified therein.
- (3) Library records may be disclosed to the extent necessary to return overdue or stolen materials or collect fines.

[Last noted date: 1985]

### **22-1-1111. Penalty.**

Any person who violates [22-1-1103](#) is guilty of a misdemeanor and is liable to the person identified in a record that is improperly released or disclosed. The person identified may bring a civil action for actual damages or \$100, whichever is greater. Reasonable attorney fees and the costs of bringing the action may be awarded to the prevailing party.

[Last noted date: 1985]

## **Cultural and Aesthetic Projects**

### **22-2-301. Cultural and aesthetic projects grants.**

- (1) Any person, association, or representative of a governing unit seeking a grant for a cultural or aesthetic project from the income of the trust fund created in [15-35-108](#) must submit a grant proposal to the cultural and aesthetic projects advisory committee, in care of the Montana arts council, by August 1 of the year preceding the convening of a regular legislative session.
- (2) Grant proposals must be for the purpose of protecting works of art in the state capitol or other cultural and aesthetic projects.

[Last noted date: 1991]

## **22-2-302. Advisory committee — powers and duties.**

- (1) The cultural and aesthetic projects advisory committee provided for in [2-15-1521](#) shall review all proposals for cultural and aesthetic project grants before they are submitted to the legislature.
- (2) Consistent with the rules adopted in accordance with [22-2-303](#), the committee shall make recommendations to the legislature on each proposal submitted to the committee.
- (3) The committee's recommendations to the legislature are advisory only.
- (4) The committee shall present its recommendations to the appropriations committee of the legislature by the 15th day of any regular legislative session.

[Last noted date: 1983]

## **22-2-303. Rulemaking authority.**

- (1) The Montana historical society and the Montana arts council shall adopt rules that specify the criteria the advisory committee shall use when evaluating and making recommendations on cultural and aesthetic grant proposals submitted to the legislature.
- (2) The Montana arts council shall adopt rules that implement the provisions of [22-2-306](#), [22-2-308](#), and [22-2-309](#), relating to local support, matching requirements, application procedures, and disbursements of grants.

[Last noted date: 1985]

## **22-2-304. Cultural and aesthetic project appropriations — administration.**

- (1) The legislature must appropriate funds from the income of the trust fund created in [15-35-108](#) for cultural and aesthetic projects before any grant for a cultural or aesthetic project is awarded.
- (2) Costs incurred by the Montana arts council for accounting, correspondence, project visits, and solicitation of proposals related to cultural and aesthetic project grants and the costs of the advisory committee established in [2-15-1521](#) shall be paid from appropriations from the income of the trust fund.
- (3) Grant proposals are heard by a legislative appropriations subcommittee.
- (4) Grant proposals approved by the legislature are administered by the Montana arts council.

[Last noted date: 1992]

## **22-2-305. Allocation and disbursement of funds.**

- (1) The Montana arts council shall allocate and disburse cultural and aesthetic project account funds as appropriated by the legislature.
- (2) If the funds in the cultural and aesthetic projects account are insufficient to fund projects in the amount of the legislative appropriation for the projects, the council shall allocate and disburse the account's funds in accordance with the provisions of the appropriation act.

[Last noted date: 1987]

## **22-2-306. Grant conditions — additional funds — accounts and reports.**

- (1) A grant may not be awarded unless the grantee accepts the Montana arts council's conditions of the grant and signs a contract stipulating those conditions.
- (2) A grantee must agree in writing that:
  - (a) the grantee is the official and sole agency for the administration of the project described in the grant agreement; and
  - (b) no person will, on the grounds of race, color, national origin, sex, or age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity that results from the expenditure of grant funds.
- (3) The grantee must agree that the funds granted will be expended solely for the purpose and activities described in the approved proposal. All funds granted to the grantee must be spent or encumbered during the grant period.
- (4) Disbursements to grantees must be as follows, based upon the cash flow needs of the projects and the revenues available:



- (a) Projects that are to receive more than \$10,000 may receive an amount not exceeding 25% of the grant award in the first 6 months of the biennium, 50% in the first year of the biennium, 75% in the first 18 months of the biennium, and the balance in the remainder of the biennium. Within the limitations contained in this subsection, the amount of each payment must be determined by the Montana arts council in its discretion. Each payment may be made only after an examination of the costs incurred in the project and the amount, if any, of the unencumbered or unexpended balance of prior grant payments for the project.
  - (b) Projects that are to receive \$10,000 or less may receive the total grant in any fiscal quarter if the Montana arts council determines that the cultural and aesthetic project account has funds available and that, after an examination of the costs incurred by the project, total payment is appropriate.
  - (c) A grant award budget may be modified in accordance with this subsection. A grantee may modify line items in an approved budget in an amount not to exceed 10% of the total grant award. A grantee may, with permission of the Montana arts council, modify line items in an approved budget in an amount not to exceed 20% of the total grant award. A modification may not increase the grant award or change the scope or purpose of the award.
- (5) The grantee must maintain accounts, records, and other pertinent material pertaining to the costs incurred and expenditures made under the grant. The system of accounting employed by the grantee must be in accordance with generally accepted accounting principles and be applied in a consistent manner so that project costs and expenditures can be clearly identified. Accounts, records, and other pertinent material must be maintained for 3 years from the official termination date of the grant period or until an audit, approved by the council, has been completed and any questions arising from the audit have been resolved to the satisfaction of the council.
  - (6) Grantees must submit to the council semiannual reports of expenditures during the course of the project and other financial and descriptive reports that the council may require. The grantee must submit, within 30 days after completion of the project, a final financial report and a narrative report stating what was accomplished with the grant. Five percent of the total grant award must be held pending receipt of final reports by the council. With regard to grantees who in the past have submitted late reports, 30% of the grant award may be held pending receipt of final reports by the council.
  - (7) The council may, at the principal place of business of the grantee and during regular business hours, examine any directly pertinent records, accounts, and documents of the grantee involving transactions related to the grant.

[Last noted date: 1989]

## **22-2-308. Application procedure — grant criteria.**

- (1) A grant for a facility owned and operated by a county or municipality must require financial support for the facility from the county or municipality. A grant for a facility owned by a county or municipality but operated by a nonprofit organization is expected to have financial support from the county or municipality, but must have, at a minimum, in-kind support for the facility from the county or municipality. The grant application form, which must be prescribed by the Montana arts council, must request specific information about the level of local support for the project and the facility.
- (2) An applicant for a historic preservation project shall cooperate with the state historic preservation office. A letter from the state historic preservation office, stating any agreements reached with the applicant, must be received by the Montana arts council before the grant funds may be released.

[Last noted date: 1993]

## **22-2-309. Grant categories.**

- (1) The following categories are established for grant funds:
  - (a) special projects which are specific cultural and aesthetic activities, services, or events of limited duration;

- (b) operational support for cultural institutions that have been in existence for at least 2 years and whose budgets reflect only the cost of continuing their current program;
  - (c) capital expenditures for acquisition, construction, or renovation of facilities; and
  - (d) challenge grants for permanent endowments to benefit cultural nonprofit grant recipients.
- (2) The Montana arts council may require a match in cash or donated services for special project and operational support grants. There is a presumption that the match must represent \$1 in value for each dollar of the grant. The Montana arts council may accept matches in excess of the presumed value or may in its discretion require a lesser amount.
- (3) Capital expenditures may not exceed 25% of the total grant funds appropriated. Capital expenditure grants require a match of at least \$3 in cash or donated goods and services, which goods and services must be donated specifically for the capital expenditure project, to receive each dollar of grant funds.
- (4) Challenge grants require a match of at least \$3 in cash or irrevocable planned or deferred gifts to receive each dollar of grant funds. Challenge grants are available upon meeting the specified match. Not less than one-third of the specified match must be in cash. Not more than one-third of the match may be in wills, devises, bequests, and paid-up life insurance policies. A devise may include retention of an irrevocable life estate by the donor.

[Last noted date: 1989]

## **22-2-321. Reversion of granted funds.**

At the end of a grant period, any unexpended balance of the grant shall revert to the cultural and aesthetic projects account provided for in [15-35-108](#).

[Last noted date: 1985]

## **Historical Society**

### **22-3-103. Historical library — independence from other libraries, museums, or galleries.**

- (1) There is a historical library, to be maintained and operated by the Montana historical society.
- (2) The historical library and any historical museum administered by the society in accordance with the provisions of this part shall be independent of any other library, museum, or gallery owned, maintained, or operated by the state of Montana.

[Last noted date: 1977]

## **Offensive, Indecent, and Inhumane Conduct**

### **45-8-201. Obscenity**

- (1) A person commits the offense of obscenity when, with knowledge of the obscene nature thereof, he purposely or knowingly:
  - (a) sells, delivers, or provides or offers or agrees to sell, deliver, or provide any obscene writing, picture, record, or other representation or embodiment of the obscene to anyone under the age of 18;
  - (b) presents or directs an obscene play, dance, or other performance, or participates in that portion thereof which makes it obscene, to anyone under the age of 18;
  - (c) publishes, exhibits, or otherwise makes available anything obscene to anyone under the age of 18;
  - (d) performs an obscene act or otherwise presents an obscene exhibition of his body to anyone under the age of 18;
  - (e) creates, buys, procures, or possesses obscene matter or material with the purpose to disseminate it to anyone under the age of 18; or
  - (f) advertises or otherwise promotes the sale of obscene material or materials represented or held out by him to be obscene.
- (2) A thing is obscene if:
  - (a)

- (i) it is a representation or description of perverted ultimate sexual acts, actual or simulated;
  - (ii) it is a patently offensive representation or description of normal ultimate sexual acts, actual or simulated; or
  - (iii) it is a patently offensive representation or description of masturbation, excretory functions, or lewd exhibition of the genitals; and
- (b) taken as a whole the material:
  - (i) applying contemporary community standards, appeals to the prurient interest in sex;
  - (ii) portrays conduct described in subsection (2)(a)(i), (2)(a)(ii), or (2)(a)(iii) in a patently offensive way; and
  - (iii) lacks serious literary, artistic, political, or scientific value.
- (3) In any prosecution for an offense under this section, evidence shall be admissible to show:
  - (a) the predominant appeal of the material and what effect, if any, it would probably have on the behavior of people;
  - (b) the artistic, literary, scientific, educational, or other merits of the material;
  - (c) the degree of public acceptance of the material in the community;
  - (d) appeal to prurient interest or absence thereof in advertising or other promotion of the material; or
  - (e) purpose of the author, creator, publisher, or disseminator.
- (4) A person convicted of obscenity shall be fined at least \$500 but not more than \$1,000 or imprisoned in the county jail for a term not to exceed 6 months, or both.
- (5) Cities, towns, or counties may adopt ordinances or resolutions which are more restrictive as to obscenity than the provisions of [45-8-206](#) and this section.

[Last noted date: 1989]

#### **45-8-203. Certain motion picture theater employees not liable for prosecution.**

- (1) As used in this section, "employee" means any person regularly employed by the owner or operator of a motion picture theater if he has no financial interest other than salary or wages in the ownership or operation of the motion picture theater, has no financial interest in or control over the selection of the motion pictures shown in the theater, and is working within the motion picture theater where he is regularly employed. "Employee" does not include a manager of the motion picture theater.
- (2) No employee is liable to prosecution under [45-8-201](#) and [45-8-206](#) or under any city or county ordinance for exhibiting or possessing with intent to exhibit any obscene motion picture provided the employee is acting within the scope of his regular employment at a showing open to the public.

[Last noted date: 1989]

#### **45-8-205. Definitions.**

As used in [45-8-205](#) through [45-8-208](#), the following definitions apply:

- (1) "Display or dissemination of obscene material to minors" means that quality of a description, exhibition, presentation, or representation, in whatever form, of sexual conduct or sadomasochistic abuse when the material or performance, taken as a whole, has the following characteristics:
  - (a) its dominant theme appeals to a minor's prurient interest in sex;
  - (b) it depicts or describes sexual conduct or sadomasochistic abuse in a manner that is patently offensive to contemporary standards in the adult community with respect to what is suitable for minors; and
  - (c) it lacks serious literary, scientific, artistic, or political value for minors. If the court finds that the material or performance has serious literary, scientific, artistic, or political value for a significant percentage of normal older minors, the material or performance may not be found to lack such value for the entire class of minors.
- (2) "Material" means a book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, record, recording tape, or videotape (except a motion picture or videotape rated G, PG, PG-13, or R by the motion picture association of America).
- (3) "Minor" means a person under 18 years of age.

- (4) "Newsstand" means a stand that distributes or sells newspapers or magazines.
- (5) "Performance" means any motion picture, film, or videotape (except a motion picture or videotape rated G, PG, PG-13, or R by the motion picture association of America); phonograph record; compact disk; tape recording; preview; trailer; play; show; skit; dance; or other exhibition played or performed before an audience of one or more, with or without consideration.
- (6) "Person" means any individual, partnership, association, corporation, or other legal entity of any kind.
- (7) "Prurient interest in sex" means a shameful or morbid interest in sex or excretion.
- (8) "Sexual conduct" includes:
  - (a) vaginal, anal, or oral intercourse, whether actual or simulated, normal or perverted. A sexual act is simulated when it gives the appearance of depicting actual sexual activity or the consummation of an ultimate sexual act.
  - (b) masturbation, excretory functions, or lewd exhibition of uncovered genitals or female breasts;
  - (c) sadomasochistic abuse, meaning an act or condition that depicts torture, physical restraint by being fettered or bound, or flagellation of or by a nude person or a person clad in undergarments or in a revealing or bizarre costume.
- (9) "Ultimate sexual act" means vaginal or anal sexual intercourse, fellatio, cunnilingus, or bestiality.

**[Last noted date: 1989]**

#### **45-8-206. Public display or dissemination of obscene material to minors.**

- (1) A person having custody, control, or supervision of any commercial establishment or newsstand may not knowingly or purposely:
  - (a) display obscene material to minors in such a way that minors, as a part of the invited public, will be able to view the material. However, a person is considered not to have displayed obscene material to minors if the material is kept behind devices commonly known as blinder racks so that the lower two-thirds of the material is not exposed to view or other reasonable efforts were made to prevent view of the material by a minor.
  - (b) sell, furnish, present, distribute, or otherwise disseminate to a minor or allow a minor to view, with or without consideration, any obscene material; or
  - (c) present to a minor or participate in presenting to a minor, with or without consideration, any performance that is obscene to minors.
- (2) A person does not violate this section if:
  - (a) the person had reasonable cause to believe the minor was 18 years of age. "Reasonable cause" includes but is not limited to being shown a draft card, driver's license, marriage license, birth certificate, educational identification card, governmental identification card, tribal identification card, or other official or apparently official card or document purporting to establish that the person is 18 years of age;
  - (b) the person is, or is acting as, an employee of a bona fide public school, college, or university or a retail outlet affiliated with and serving the educational purposes of a school, college, or university and the material or performance was disseminated in accordance with policies approved by the governing body of the institution;
  - (c) the person is an officer, director, trustee, or employee of a public library or museum and the material or performance was acquired by the library or museum and disseminated in accordance with policies approved by the governing body of the library or museum;
  - (d) an exhibition in a state of nudity is for a bona fide scientific or medical purpose for a bona fide school, library, or museum; or
  - (e) the person is a retail sales clerk with no financial interest in the material or performance or in the establishment displaying or selling the material or performance.

**[Last noted date: 2007]**

#### **45-8-207. Notice of violation.**

Before a county attorney may prosecute a person for a continuing violation of [45-8-206](#), he shall determine that the material or performance is obscene to minors, give the alleged violator actual notice of the determination

and notice that he will be prosecuted if he does not desist, and determine that the violation continued for at least 3 days after notice was received. The person may seek a declaratory judgment on the question whether the material or performance is obscene to minors. The statute of limitations for the offense is tolled while the declaratory judgment or an appeal from it is pending.

[Last noted date: 1989]

#### **45-8-208. Penalties.**

- (1) A person who is convicted of violating [45-8-206](#) is guilty of a misdemeanor and may be fined an amount not to exceed \$500 or be imprisoned for a term not to exceed 6 months, or both.
- (2) For purposes of [45-8-206](#), multiple copies of the same title, monthly issue, volume and number issue, or other identical material constitutes a single offense.

[Last noted date: 1989]

### **Montana Clean Indoor Air Act [Smoking in Public Places] Government Offices and Work Areas**

#### **50-40-201. Local government buildings -- smoking prohibited.**

- (1) In all parts of buildings maintained by a political subdivision, smoking is prohibited as provided in this section.
- (2) Buildings owned and occupied by a political subdivision only must be smoke-free on January 1, 2006. Buildings leased and occupied by a political subdivision only must be smoke-free as soon as practicable on or after January 1, 2006, but no later than July 1, 2006. In a building leased and occupied by a political subdivision and another entity, the on-the-scene manager of the political subdivision activity located in the building shall make the portions of the building occupied by the political subdivision activity smoke-free as soon as practicable after January 1, 2006, but no later than July 1, 2006, and is encouraged to work with the building owner or other tenants to make the building smoke-free.
- (3) Restrictions contained in this section and imposed by the governing body apply uniformly to the employees of the political subdivision and the public.

[Last noted date: 2005]

### **[Fire Safety in Public Buildings] General Provisions**

#### **50-61-101. Purpose of chapter.**

The purpose and intent of this chapter are to provide for the public safety in case of fire in those occupancies specified in [50-61-103](#) and to allow for inspection of the buildings and premises by specified officers.

[Last noted date: 2003]

#### **50-61-102. Department of justice to administer chapter.**

- (1) The department of justice has general charge and supervision of the enforcement of this chapter, and the officers enumerated in [50-61-114](#) shall act under its general charge and supervision, shall assist the department in giving effect to this chapter, and are subject to its direction and the rules adopted under [50-3-102](#) and [50-3-103](#) for the enforcement of [50-61-120](#), [50-61-121](#), and this chapter.
- (2) Upon its approval of a fire code and a plan for enforcement of the code filed by a municipality or other governmental fire agency organized under Title 7, chapter 33, the department may approve a municipal or governmental fire agency fire inspection program for local enforcement.

[Last noted date: 2007]

#### **50-61-103. Application of chapter — definitions.**

This chapter applies to the occupancies defined below:

- (1) "Assembly occupancy" means the occupancy or use of a building or a structure or any portion of a building or a structure by a gathering of 50 or more persons for purposes such as civic,

- political, religious, or social functions, recreation, education, instruction, food or drink consumption, or awaiting transportation.
- (2) "Business occupancy" means the occupancy or use of a building or a structure or any portion of a building or a structure for office, professional, or service transactions. A business occupancy includes the use of a structure for the storage of records and accounts or for an eating or drinking business establishment with an occupant load of less than 50 persons.
  - (3) "Educational occupancy" means the occupancy or use of a building or a structure or any portion of a building or a structure by persons assembled for the purpose of learning or receiving educational instruction. An educational occupancy includes but is not limited to any building used for:
    - (a) educational purposes through the 12th grade for more than 12 hours a week or 4 hours in any 1 day; or
    - (b) day-care purposes for more than 12 persons.
  - (4) "Industrial occupancy" means the occupancy or use of a building or a structure or any portion of a building or a structure for assembling, disassembling, fabricating, finishing, manufacturing, packaging, repairing, or processing operations.
  - (5) "Institutional occupancy" means the occupancy or use of a building or a structure or any portion of a building or a structure by more than five persons harbored or detained to receive medical, charitable, or other care or treatment or by persons involuntarily detained. An institutional occupancy includes but is not limited to:
    - (a) nurseries for the full-time care of children under the age of 6;
    - (b) hospitals, sanitariums, or nursing homes; and
    - (c) mental hospitals, mental sanitariums, jails, prisons, reformatories, or buildings where personal liberties of those harbored or detained are similarly restrained.
  - (6) "Residential occupancy" means the occupancy or use of a building or a structure or any portion of a building or a structure by persons for whom sleeping accommodations are provided and who are not harbored or detained to receive medical, charitable, or other care or treatment and who are not involuntarily detained. A residential occupancy includes but is not limited to hotels, motels, apartment houses, dwellings and lodging houses. A residential occupancy does not include a building used only for private residential purposes for a family.

[Last noted date: 2003]

#### **50-61-106. Unlawful to obstruct fire exit.**

It is unlawful to obstruct in any manner any fire exit, or any hallway, corridor, or entranceway leading to a fire exit, required by rules adopted by the department of justice.

[Last noted date: 1991]

#### **50-61-114. Fire chief and fire inspector to make inspections.**

For the purpose of examining the premises for violations of this chapter and rules adopted under [50-3-103](#) for the enforcement of this chapter, the chief or fire inspector of the governmental fire agency organized under Title 7, chapter 33, when a fire inspection program is established, or a fire inspector of the department of justice, when a fire inspection program does not exist:

- (1) shall enter into school buildings at least once each 18 months; and
- (2) may enter into all other buildings and upon all other premises within the jurisdiction, according to priority schedules established by the department for conducting inspections of buildings and premises.

[Last noted date: 2007]

#### **50-61-115. Notice of violations.**

- (1) When a building is found that is not in compliance with fire safety rules promulgated by the department of justice, the person making the inspection or the department shall serve a written notice upon the party whose duty it is to maintain the safety of the building.
- (2) The notice must specify the time within which the defective conditions must be remedied.
- (3) The notice is served if delivered to the person to be notified, if left with any adult person at the usual residence or place of business of the person to be notified, or if deposited in the post

office directed to the last-known address of the person to be notified. Whenever buildings are managed and controlled by a board of trustees, board of commissioners, or other governing body, the notice is served if delivered to the president, secretary, or treasurer of the board of trustees, board of commissioners, or other governing body.

[Last noted date: 1991]

#### **50-61-116. Lessee who corrects violations entitled to reimbursement.**

The occupant or lessee of any building who is required to erect fire escapes under the provisions of this chapter is entitled to reimburse himself for the cost and expense of erecting the fire escapes out of the rent or lease money of the premises, and the reimbursement is not a breach of any existing lease, contract, or covenant thereof or grounds for any action or damage ouster.

[Last noted date: 1977]

#### **50-61-117. Prosecution of violations.**

It is the duty of the department of justice or other authorized officer to furnish the county attorney with all evidence of violations of rules adopted by the department within the county where said violations occur, and, if the evidence discloses the fact that a violation has occurred, it is the duty of the county attorney of the county to prosecute the person committing the violation in the same manner as in other cases.

[Last noted date: 1991]

#### **50-61-118. Injunction authorized.**

In addition to the other remedies and penalties provided in this chapter, upon the failure of any of the parties charged with the duty to maintain the safety of the building premises in accordance with rules adopted by the department of justice, the attorney general of the state or the county attorney of the county where the building is located shall bring an action against the owner, lessee, and occupants of the building for an injunction enjoining the further occupancy of it until it is in compliance with this chapter. The action may be brought in the county where the building is located.

[Last noted date: 1991]

#### **50-61-119. Violation of chapter a misdemeanor.**

- (1) Any person failing, neglecting, or refusing to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than \$50.
- (2) Each day's failure to comply with any of the provisions of this chapter, after the expiration of the time stipulated in the written notice provided for herein, shall constitute a separate offense.

[Last noted date: 1947]

### **Universal Access and Service**

#### **69-3-841. Universal service policies.**

The legislature finds that universally available telecommunications services are essential to the health, welfare, and economic well-being of the citizens of Montana. The federal Telecommunications Act of 1996, Public Law 104-104, requires a transition to local competition. Implicit subsidies have historically been used to further the public policy of keeping local rates to customers in high-cost areas at affordable levels. The federal act and the transition to competition require that all subsidies used to keep local rates at affordable levels be explicit. Additionally, the federal act's universal service provisions establish a system of discounts for schools, libraries, and health care providers. Securing these discounts can be dependent on state actions. In order to preserve and advance the goal of universal service in the new competitive environment established by the federal act, the legislature finds that a new Montana universal service fund, supported by contributions from the telecommunications carriers operating in Montana, should be created that will:

- (1) not duplicate the federal universal service fund mandated by the Telecommunications Act of 1996 but that will complement the federal fund by providing additional funding as necessary to ensure universal service in the state of Montana;
- (2) be competitively and technologically neutral in both funding and distribution;



- (3) provide a specific, predictable, and sufficient mechanism of support for high-cost areas; and
- (4) allow for implementation of the federal support system for telecommunications services provided to schools, libraries, and health care providers.

[Last noted date: 1997]

### **69-3-846. Discounts for schools, libraries, and health care providers.**

The commission is authorized to establish intrastate discounts to schools, libraries, and health care providers and to perform administrative functions necessary as a condition of federal universal service support if the discounts are recovered through the federal universal service fund.

[Last noted date: 1997]

## **[Natural Resource Information System] General**

### **90-15-101. Purpose.**

It is the purpose of this chapter to establish a planning framework for the development of a natural resource information system, to implement the system, and to establish an ongoing Montana natural heritage program.

[Last noted date: 1985]

### **90-15-102. Definitions.**

As used in this chapter, the following definitions apply:

- (1) "Committee" means the natural resource data system advisory committee created by [2-15-1514](#).
- (2) "Library" means the state library provided for in [22-1-201](#).
- (3) "Natural heritage program" means a program of information acquisition, storage, and retrieval for data relating to the flora, fauna, and biological community types of Montana.
- (4) "Principal data source agencies" means any of the following state agencies: the department of natural resources and conservation; the department of fish, wildlife, and parks; the department of environmental quality; the department of agriculture; the department of transportation; the state historical society; and the Montana university system.

[Last noted date: 1995]

### **90-15-103. Funding.**

The library and each principal data source agency may apply for and may receive funding from private and public sources for the purposes of this chapter.

[Last noted date: 1989]

## **Advisory Committee**

### **90-15-201. Duties of committee.**

The committee shall examine the following matters and make recommendations to the library concerning:

- (1) criteria for the categories and types of data to be collected for a natural resource information system;
- (2) criteria for the format of data collection;
- (3) identification of existing sources of relevant data in the public sector;
- (4) identification of data acquisition, storage, and retrieval methodologies that are economical and efficient, that minimize or eliminate the duplication of databases, and that utilize computer networking;
- (5) probable costs to agencies furnishing required data and probable costs of managing the data;
- (6) probable benefits to be realized by the establishment of a natural resource information system;
- (7) operation of the Montana natural heritage program; and
- (8) other items the committee considers of importance to the establishment of a natural resource information system.

[Last noted date: 1985]



### **90-15-202. Committee staff.**

The library shall provide staff support to the committee, within the limits of the library's available resources.

[Last noted date: 1985]

### **90-15-203. Expenses of committee members — meetings.**

- (1) Committee members, while engaged in committee business, are entitled to be reimbursed for travel expenses as provided for in [2-18-501](#) through [2-18-503](#). These expenses shall be borne by the agency employing the member. Each member serves at the pleasure of the respective appointing authority.
- (2) The committee shall establish its own format for the conduct of meetings.

[Last noted date: 1983]

## **Information System**

### **90-15-301. Establishment of information system.**

- (1) The library, in consultation with the committee, shall establish a planning framework for the implementation of a natural resource information system and shall begin implementation of the plan. This system is to be a comprehensive program for the acquisition, storage, and retrieval of existing data relating to the natural resources of Montana.
- (2) The library shall give attention to the factors listed in [90-15-201](#) and shall prepare any legislation necessary to implement the system.
- (3) It is not intended that the system shall require fieldwork to produce data. The system is intended to facilitate the management of data collected by state agencies in the normal course of their operations.

[Last noted date: 1985]

### **90-15-302. Natural heritage program.**

- (1) There is a Montana natural heritage program to be operated by the library. In order to establish the program, the library may contract with an independent contractor or may employ necessary staff. In order to minimize costs, the library or other state agencies may make available state resources and facilities to an independent contractor as part of a contract for services.
- (2) The Montana natural heritage program shall be designed to be compatible with similar programs in other states. This program is to be an initial step in the formulation of the comprehensive natural resource information system referred to in [90-15-301](#) and is to be considered a part of the system.

[Last noted date: 1985]

### **90-15-303. Interagency cooperation.**

- (1) State agencies shall cooperate with the library and the committee in the planning of the natural resource information system.
- (2) Within the limits of available resources, state agencies shall provide data requested by the library for purposes of the natural resource information system and the Montana natural heritage program. If an agency does not possess requested data or is unable to locate requested data, the agency shall inform the library. It is not necessary for an agency to conduct fieldwork or literature searches to obtain requested data.

[Last noted date: 1997]

### **90-15-304. Availability of information.**

- (1) Except as provided in subsection (3), the library shall make information from the natural resource information system available to local, state, and federal agencies and to the general public.

- (2) The library may establish a fee system for information requests in order to cover the costs of providing requested information.
- (3) If necessary, the library shall establish procedures to protect confidential information in the possession of state agencies.

[Last noted date: 1985]

#### **90-15-305. Water information system.**

- (1) There is a Montana water information system, to be operated within the natural resource information system referred to in [90-15-301](#) and that is to be considered a part of the system.
- (2) The Montana water information system shall make available and readily accessible, in a usable format, to state agencies and other interested persons, information on the state's water resources, out-of-state water resources that affect the state, existing and potential uses, and the existing and potential demand.

[Last noted date: 1997]

# Chapter 3

## Administrative Rules

# Chapter 3 Administrative Rules of Montana

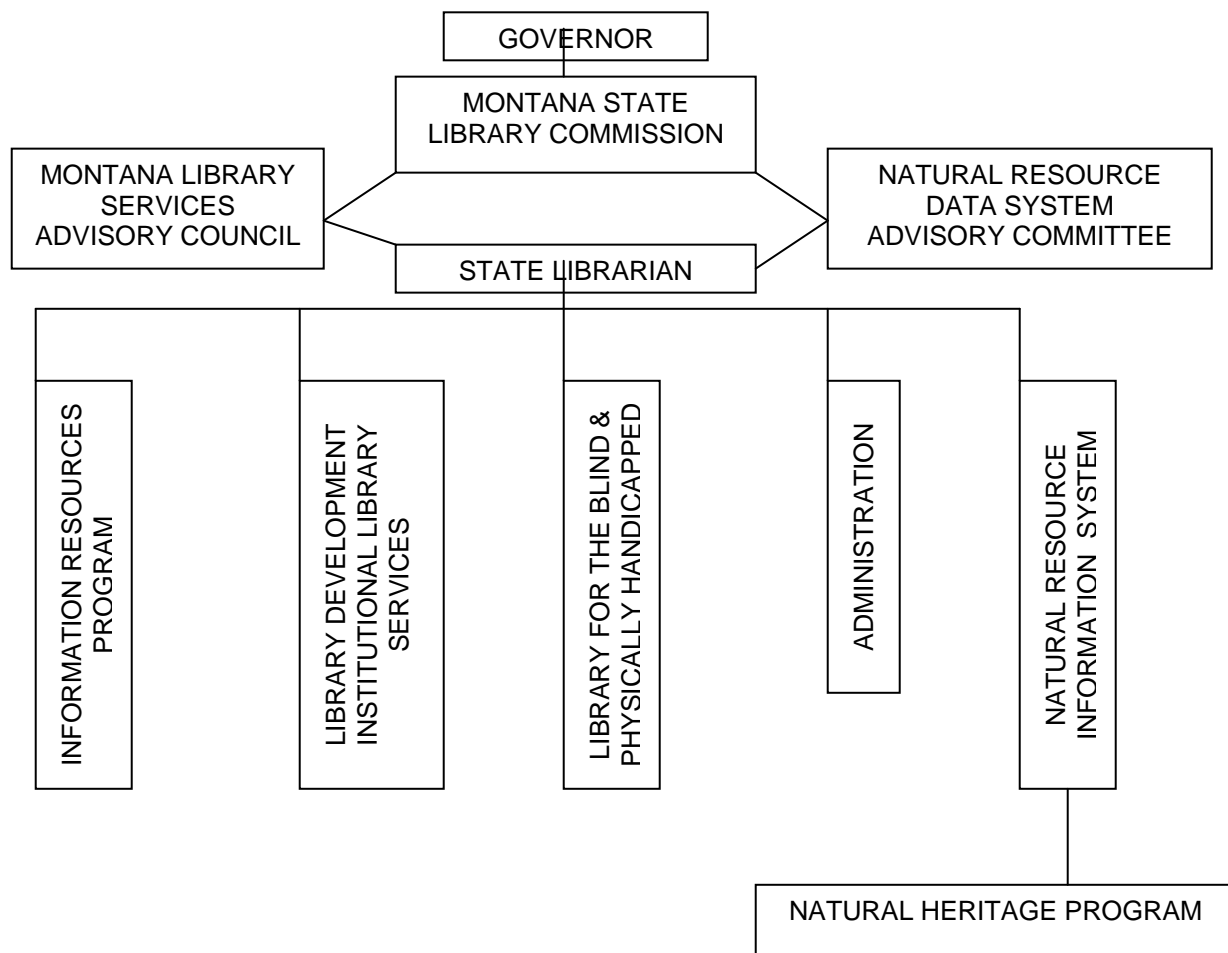
## Organizational Rule

### 10.101.101 AGENCY ORGANIZATION

- (1) The state library commission consists of five members appointed by the governor for three year terms and the state superintendent of public instruction or his designee and a librarian appointed by the commissioner of higher education from the Montana university system. The commission annually elects a chair from its membership. It employs as its executive officer a state librarian who is not a member of the commission, and who performs duties assigned by the commission.
- (2) The state library provides library service at the state level, serving state government, local libraries, and federations; it promotes the development of adequate libraries throughout the state; it provides library service to persons with visual and physical disabilities and persons in state institutions; expends funds available from federal, state, and private sources for the purpose of fostering library development; and provides for a comprehensive program for the acquisition, storage, and retrieval of data related to the natural resources of Montana.
- (3) The Montana library services advisory council is created by the governor in accordance with the provisions of 2-15-122, MCA. The commission shall submit names of recommended council members to the governor.
  - (a) The council shall advise and make recommendations to the commission on the development, evaluation and funding of the Library Services and Technology Act (LSTA) program and other pertinent issues that may relate to or influence LSTA.
  - (b) The composition of the council shall be no more than nine members. Eight shall serve for two years and may be reappointed for two additional terms and may represent: users of public library services in eastern, central, and western Montana; public libraries; school libraries; academic or special libraries; persons who cannot use traditional library services; and a member of the legislature. The president of the Montana library association or designee may serve a one-year term on the council during the presidency of the association.
  - (c) The council shall have the authority to establish bylaws for its internal operation. These bylaws may not conflict with 22-1-103, MCA, the Library Services and Technology Act, its rules and regulations, or with policies established by the commission.
  - (d) The number of yearly meetings shall be determined by the executive committee of the council. The number shall remain flexible to include no less than two and no more than four meetings.
- (4) Inquiries regarding the functions of the state library should be addressed to the state librarian.
- (5) Personnel Roster: Montana State Library, 1515 E. 6th Ave., Helena, Montana 59620; State Librarian, Statewide Library Resources Director, Regional Director of the Talking Book Library, and Director of the Natural Resource Information System.

**[Last noted date: 1997]**

## Montana State Library Organization Chart





## **Procedural Rules**

### **10.101.201 CORPORATION OF MODEL RULES**

- (1) The state library commission has adopted the attorney general's model rules of administrative procedure, as set forth in ARM Title 1, chapter 3, with the proviso that a hearing on denial of an application for a grant of Library Services and Technology Act funds may be conducted under the commission's rule ARM [10.101.202](#), or in the alternative, under the model rules of contested case hearing.

[Last updated 1/17/03]

### **10.101.203 GUIDELINES FOR PUBLIC PARTICIPATION**

- (1) Except for financial exigencies, the commission shall meet six times during each calendar year, at approximately equal intervals, and at such other times as may be appropriate. Special meetings may be called by the chair or at the request of two members. An agenda for each regular meeting shall be prepared by the state librarian in consultation with the chair and will be distributed in advance, with supporting documents to the members.
- (2) Agendas are available to the public from the office of the state librarian. Supporting documents may be requested from that office. Each commission agenda shall provide an open time for the public to address the commission.

[Last updated 11/4/97]

### **10.101.206 APPEALS PROCESS FOR DENIAL OF A GRANT**

- (1) Any person or group submitting a proposal for grant funds to the Montana state library commission shall have the right to appeal if the proposal is not funded. The request for the appeal shall be made to the Montana State Librarian at 1515 E. Sixth Ave., Helena, MT 59620 (444-3115) within 12 working days of receipt of the letter denying the grant.
- (2) Upon receiving a notice of appeal, the state librarian, acting on behalf of the commission, shall convene an independent review committee. The committee shall be composed as follows: a representative named by the appellant who is not from the appellant's library or governing authority; a representative chosen by the chair of the commission, who is not a commission member; a representative from the library community who is not connected to the appellant, named by the president-elect of the Montana library association.
- (3) The independent review committee shall hear the appeal based on procedures which it shall determine. Both the appellant and the state librarian shall have equal opportunity to present testimony either in writing or orally and to respond to points raised by the other party. The independent review committee shall make its findings and recommendations to the Montana state library commission which shall take final action on the appeal. The commission can affirm, deny, or modify the recommendations of the independent review committee.
- (4) The state librarian, upon final determination of the appeal by the commission, shall notify the appellant in writing. This notice shall conclude the appeals process.

[Last updated: 1/17/03]

## **Substantive Rules - Public Library Development**

### **10.102.1150A PUBLIC LIBRARY STANDARDS: GENERAL**

- (1) Public libraries receiving state payments must meet the following essential standards by July 2007 and each year following.
- (2) General essential standards for public libraries are as follows:
  - (a) The library is established under Montana's laws according to [22-1-301](#) through [22-1-317](#), [22-1-701](#) through [22-1-1711](#), or Title 7, MCA.
  - (b) The board conforms to all applicable state, local, and federal laws, rules, and regulations.

- (c) Monthly, or at least quarterly, library board meetings are held in an accessible location at times and a place convenient to the public and according to state laws on public meetings.
  - (d) The library submits the Montana Public Library Annual Statistical Report to the Montana State Library.
- (3) General enhanced standards for public libraries are as follows:
  - (a) In order for the board to be knowledgeable about current library issues, new board members receive an orientation by the library director, a trustee, and/or others.
  - (b) On an annual basis, board members report on how they have promoted and supported the library, its programs, and services.
  - (c) Library board meetings are held every other month.
- (4) General excellent standards for public libraries are as follows:
  - (a) The library provides for continuing education for its trustees by allocating funds to support continuing education costs, including travel expenses.
  - (b) At least two members of the library board will attend a regional or statewide library related activity each year.
  - (c) Board members will discuss library issues with local government officials at least twice a year, and state and/or national government officials at least once a year.
  - (d) Every three years, the board will review, evaluate, and compare its own governance structure with different governance structures for the library. This includes districting, county library systems, etc.
  - (e) At least three library board members join any professional library association and dues are paid by the library.

[Last updated: 2006]

#### **10.102.1150B PUBLIC LIBRARY STANDARDS: POLICIES AND BYLAWS**

- (1) General essential standards for public libraries are as follows:
  - (a) Every three years, the board reviews and updates its bylaws as necessary.
  - (b) The board develops, studies, evaluates, reviews, updates, and adopts as necessary all library policies at least once every three years. When the board reviews library policies, the policies' effect on the library's relations with the public are evaluated.
  - (c) The public must have easy access to written policies, procedures, and bylaws.

[Last updated: 2006]

#### **10.102.1150C PUBLIC LIBRARY STANDARDS: PLANNING AND EVALUATION**

- (1) General essential standards for public libraries are as follows:
  - (a) The board uses the Montana Public Library Annual Statistical Report to review the library's year-to-year progress and performance.
  - (b) The library must have a written mission statement.
  - (c) The library governing authority adopts emergency response plans that ensure the safety of the public and staff as the primary priority.
- (2) General enhanced standards for public libraries are as follows:
  - (a) The library has a written three to five year long-range plan, and reviews it annually. The long-range plan addresses services, facilities, public relations, technology, etc.
  - (b) The board evaluates the library's performance against the stated objectives in the long-range plan.
  - (c) The library must have a vision statement.
- (3) General excellent standards for public libraries are as follows:
  - (a) Community representatives, the board, and the director develop a long-range plan for the library.
  - (b) At least every five years, the library conducts community studies and makes use of other needs assessment techniques to ensure community participation in the design and delivery of library service.

[Last updated: 2006]



## **10.102.1150D PUBLIC LIBRARY STANDARDS: FINANCE**

- (1) General essential standards for public libraries are as follows:
  - (a) The board and the director follow fiscal procedures consistent with state law and local government requirements in preparing, presenting, and administering its budget.
  - (b) Local tax revenues provide at least 50% of the support for the library. Grants, donations, and other revenue sources supplement but do not supplant local tax support.
  - (c) The director works with the board to develop an annual financial plan or budget.
  - (d) The board and the director annually review the adequacy of insurance coverage for the collection and building, and update the coverage as necessary.
- (2) General enhanced standards for public libraries are as follows:
  - (a) The library sets aside money in a depreciation fund to meet requirements for capital expenditures.
  - (b) Local tax revenues provide at least 60% of the support for the library. Grants, donations, and other revenue sources supplement but do not supplant local tax support.
- (3) General excellent standards for public libraries are as follows:
  - (a) The library has established a foundation or endowment.
  - (b) The foundation board and/or the library board develops a plan for planned giving.
  - (c) The foundation board and/or the library board establishes a policy regarding the acceptance of gifts of real and personal property, endowment funds, and planned giving.
  - (d) The library has a Friends of the Library organization.
  - (e) Local tax revenues provide at least 70% of the support for the library. Grants, donations, and other revenue sources supplement but do not supplant local tax support.

[Last updated: 2006]

## **10.102.1150E HUMAN RESOURCES STANDARDS: LIBRARY DIRECTOR**

- (1) General essential standards for public libraries are as follows:
  - (a) The board hires the director according to local, state, and federal regulations and delegates the day-to-day management of the library to the director.
  - (b) The board evaluates the performance of the director annually.
  - (c) Each public library has a paid director who is responsible for the administration of library services.
  - (d) Libraries that serve more than 25,000 people employ a library director with a graduate degree in library or information science or its equivalent.
  - (e) Libraries that serve less than 25,000 people employ a library director who is or will be within three years of hire certified by the state library.
- (2) General enhanced standards for public libraries are as follows:
  - (a) The director conducts a formal performance appraisal of each staff member at least annually.
  - (b) The library director informs the board of pending legislation that affects libraries on the local, state, and national levels.
  - (c) The library director reviews and updates procedures every three years.
  - (d) The library director must join the State Library Association.
- (3) General excellent standards for public libraries are as follows:
  - (a) The library director provides a climate that encourages development of innovative programs and projects by providing at least three informal staff discussions about innovative programs or opportunities.
  - (b) The director keeps the community and funding officials aware of the library's purpose, planning, and services through the use of newspaper articles, websites, radio programs, attending meetings, etc.
  - (c) The director forms collaborative partnerships with other agencies and organizations in the library's service area.
  - (d) Libraries that serve less than 25,000 people employ a library director who has an AA/AS or higher degree.

- (e) In addition to the library director's annual evaluation, the library director is evaluated every three years by the board with the input of staff, library users, and/or library nonusers.

[Last updated: 2006]

## 10.102.1150F HUMAN RESOURCES STANDARDS: GENERAL

- (1) General essential standards for public libraries are as follows:
  - (a) The library board provides continuing education for the director and staff members by allocating funds to support continuing education costs, including travel expense and salary.
  - (b) Paid staff persons are present during 90% of all open hours.
  - (c) The board must adopt and review a personnel policy every three years.
  - (d) The library maintains written, up-to-date job descriptions.
  - (e) All libraries must have internet access for staff.
- (2) General enhanced standards for public libraries are as follows:
  - (a) Volunteer programs have written policies, procedures, and job descriptions.
  - (b) Every staff member attends at least one continuing education eligible training program per year.
  - (c) Appropriate library staff have e-mail accounts available for communication and professional development.
  - (d) There is at least one personal computer for staff use only.
- (3) General excellent standards for public libraries are as follows:
  - (a) Regardless of population, total library staff is not less than one full-time employee.
  - (b) The library board encourages and supports staff involvement in community organizations and activities.
  - (c) Employees have access to health insurance and retirement through the public library.

[Last updated: 2006]

## 10.102.1150G HUMAN RESOURCES STANDARDS: ACCESS

- (1) General essential standards for public libraries are as follows:
  - (a) The board and the director determine the days of the week and the hours during the day to be open to provide maximum service.
  - (b) The library is open during the week at least the following minimum hours. Many libraries exceed this minimum because the community, the board, and the director recognize that the number of hours of public service leads to greater use by the public. A library with more than one service outlet may use the total nonoverlapping hours of all outlets to meet the minimum requirement.

Population	Minimum	Desirable
less than 3,500	15	25-40
more than 3,500	30	40-50
more than 10,000	40	50-60
more than 25,000	50	60+

- (c) Library users who wish to copy materials available from noncirculating items or from computer files must have access to a photocopy machine or printer.
  - (d) The library must have a telephone and answer telephone inquiries.
  - (e) The library must provide access to resources and services for patrons with disabilities.
- (2) General enhanced standards for public libraries are as follows:
  - (a) Library customers are able to access library information from remote locations.
  - (b) When necessary, the library refers customers to other places to fulfill the customer's information needs.
- (3) General excellent standards for public libraries are as follows:

- (a) The library provides appropriate access to library services for specialized populations, including, but not limited to, the homebound, the institutionalized, and non-English speaking populations.

[Last updated: 2006]

### **10.102.1150H MATERIALS AND COLLECTIONS STANDARDS: COLLECTION DEVELOPMENT**

- (1) General essential standards for public libraries are as follows:
  - (a) The board adopts a collection management policy that it reviews every three years. The policy addresses the use of electronic resources. The library submits its collection development policy to the Montana State Library.
  - (b) The board and the director develop an annual materials budget as part of the library budget.
  - (c) The library uses at least one professionally recognized review source.
  - (d) The library provides access to federal, state, and local government documents that are appropriate to its community.
- (2) General enhanced standards for public libraries are as follows:
  - (a) The library cooperates with other community institutions to plan and implement access to electronic resources.
  - (b) The library provides access to materials for those with disabilities and others who may have special needs.
  - (c) The library is on the collection management honor roll.
- (3) General excellent standards for public libraries are as follows:
  - (a) The library cooperates with other local and regional libraries in collection development to provide a wide range of materials in a variety of formats to meet the needs of the community.

[Last updated: 2006]

### **10.102.1150I PUBLIC LIBRARY STANDARDS: ACCESS TO THE COLLECTION**

- (1) General essential standards for public libraries are as follows:
  - (a) Materials are purchased to ensure a steady flow of materials for the public.
  - (b) The library catalogs and organizes its collection according to standard cataloging and classification systems and procedures. Automated records comply with the machine-readable catalog (MARC) format.
  - (c) The library offers interlibrary loan and follows the Montana state interlibrary loan protocols.
- (2) General enhanced standards for public libraries are as follows:
  - (a) The library uses an online interlibrary loan system.
  - (b) The library has an automated system for circulation, cataloging, and public access catalogs that has reporting features and supports MARC records.
- (3) General excellent standards for public libraries are as follows:
  - (a) The library collection is available online.
  - (b) The library, if appropriate, has joined a shared integrated library system, also known as a shared catalog.

[Last updated: 2006]

### **10.102.1150J PUBLIC LIBRARY STANDARDS: COLLECTION EVALUATION**

- (1) General essential standards for public libraries are as follows:
  - (a) The library's collection is continually evaluated based on the library's collection management policy. The entire collection is evaluated within each three-year period.
- (2) General enhanced standards for public libraries are as follows:
  - (a) The library monitors the use of the collection through analyzing statistical information, including circulation per capita and the collection's turnover rate.

[Last updated: 2006]

## **10.102.1150K PUBLIC LIBRARY FACILITIES STANDARDS**

- (1) General essential standards for public libraries are as follows:
  - (a) The board and the director evaluate the library building every three years to determine adequate space needs.
  - (b) The board and the director address any identified facility shortcomings in a building plan.
  - (c) The library facility is safe for the public and staff.
  - (d) The library's facilities conform to local requirements for accessibility.
- (2) General enhanced standards for public libraries are as follows:
  - (a) The library has an exterior sign visible from the nearest roadway that identifies it as the library.
  - (b) The library has a public meeting area available.
  - (c) The library facility is evaluated for accessibility.
- (3) General excellent standards for public libraries are as follows:
  - (a) The library has adequate, well-lit parking.
  - (b) The library's facilities conform to federal requirements for accessibility.

**[Last updated: 2006]**

## **10.102.1150L PUBLIC LIBRARY PUBLIC RELATIONS STANDARDS**

- (1) General essential standards for public libraries are as follows:
  - (a) The library cooperates in state, regional, and national efforts to promote library services.
  - (b) The library uses basic PR/marketing tools such as brochures, flyers, bookmarks, newspaper, radio, TV, public service outlets, websites, story times, displays, and programs in the library.
- (2) General enhanced standards for public libraries are as follows:
  - (a) The library targets special groups within the community for programs or services (seniors, ethnic populations, etc.)
  - (b) Funds are budgeted for publicity either by the library and/or the Friends of the Library.
  - (c) Staff and board are encouraged to bring the library's message to the community at appropriate venues.
- (3) General excellent standards for public libraries are as follows:
  - (a) The library allocates funds for public relations, has a community awareness program, and actively promotes its mission.
  - (b) The library conducts a community assessment to evaluate the library's marketing efforts.
  - (c) The library establishes or works with existing community advisory groups to encourage community involvement and improve service. Examples of such groups include youth, seniors, genealogy, local history, and other identified segments of the population.
  - (d) The library has a Friends of the Library organization.
  - (e) The library maintains an up-to-date webpage. (

**[Last updated: 2006]**

## **10.102.1150M PUBLIC LIBRARY SERVICES STANDARDS**

- (1) General essential standards for public libraries are as follows:
  - (a) On an annual survey, library customers indicate that they have received courteous and helpful service from all library staff.
  - (b) The library uses comparative statistics, annual surveys, or other methods to evaluate the services offered.
  - (c) The library offers programming for children and adults.
  - (d) The library has policies and/or procedures for services provided.
  - (e) The library programming is free and open to all.
  - (f) The library must make every effort to maintain confidentiality of library records as addressed in [22-1-1103](#), MCA.

- (g) Core library services as defined by the local community and library are provided all hours the library is open. Examples include lending circulating materials, reference, and interlibrary loan.
- (2) General enhanced standards for public libraries are as follows:
  - (a) The library provides information about the community to customers.
  - (b) The library offers programming for children, adults, and young adults.
  - (c) The library offers or makes patrons aware of virtual reference services.
- (3) General excellent standards for public libraries are as follows:
  - (a) The library collaborates with other community organizations and educational institutions to promote library services.
  - (b) The library provides library outreach services.
  - (c) The library has a Friends of the Library organization.
  - (d) The library has wireless internet access for patrons.

[Last updated: 2006]

### **10.102.1151 CERTIFICATION STATEMENT**

- (1) The Montana State Library will send a certification statement to public libraries each fiscal year.
  - (a) This statement will provide for a status report regarding each essential standard and will require the signature of the library director and the library board chair.
  - (b) The signed and dated certification statement will be returned to the state library by July 25th of each year.

[Last updated: 2006]

### **10.102.1152 DEFERRALS**

- (1) Any library may request a waiver from the state librarian in writing by July 25th of each year.
  - (a) The state librarian may grant a waiver of any of the standards in ARM [10.102.1150E](#) if:
    - (i) the library certifies that application of these standards would cause a hardship; and
    - (ii) provides a compliance plan by which the library will meet the standard(s) within three years.
  - (b) The state librarian shall notify the library requesting the waiver of the decision by letter by October 1.
  - (c) Any library may request a one-year extension of the waiver from the state librarian in writing by July 25th of each year. The library shall provide the state librarian with an updated compliance plan and a statement that the application of the standard will cause a hardship.
  - (d) The state librarian may grant an extension for one year only. No other extension is allowed.
  - (e) Any library that employs a director without a graduate degree in library or information science or its equivalent as of July 1, 2001 is exempt from ARM [10.102.1150E](#).

[Last updated: 2006]

### **10.102.1153 FINAL ARBITER**

- (1) For any questions arising because of ARM [10.102.1151](#), [10.102.1152](#), [10.102.1154](#) through [10.102.1157](#), [10.102.1150A](#) through [10.102.1150M](#), the final arbiter is the State Library Commission.

[Last updated: 2006]

### **10.102.1154 APPEALS PROCESS**

- (1) The following outlines the process that libraries need to follow if they are denied a waiver of one or more of the standards from above.

- (a) Any public library shall have the right to appeal. The request for the appeal shall be made to the State Librarian at P.O. Box 201800, Helena, MT 59620-1800 (406) 444-3115) within 12 working days of the receipt of the letter denying payment.
- (b) Upon receiving a notice of appeal, the state librarian, acting on behalf of the commission, shall convene an independent review committee. The committee shall consist of:
  - (i) a member named by the appellant who is not a member of the appellant's library staff, library board, or city or county commission;
  - (ii) a member chosen by the chair of the State Library Commission, who is not a commissioner or a state library staff member; and
  - (iii) a member from the library community who is not affiliated with the appellant's library, the State Library Commission, or state library staff, named by the president-elect of the Montana Library Association.
- (c) The independent review committee shall hear the appeal based on the following procedures:
  - (i) both the appellant and the state library shall have equal opportunity to present testimony, either in writing or orally, and to respond to points raised by the other party.
  - (ii) the independent review committee shall make its findings and recommendations to the Montana State Library Commission, which shall take final action on the appeal.
- (d) The commission can affirm, deny, or modify the findings and recommendations of the independent review committee.
- (e) The state librarian, upon final determination of the appeal by the commission, shall notify the appellant in writing. This notice shall conclude the appeals process.
- (f) Neither the independent review process nor any subsequent review and decision process of the commission is a contested case, and common law and statutory rules of evidence do not apply to these proceedings.

[Last updated: 2004]

#### **10.102.1155 ANNUAL STATISTICAL REPORT**

- (1) The commission, in setting up minimum standards of free public library service and in certifying such libraries for state monies shall require the filing of an annual statistical report.
  - (a) This annual report may include such types of information as the Montana State Library commissioners shall deem necessary.
  - (b) In no instance shall the commission require new cumulations of statistical data without providing to each affected public library, 60 days prior to the beginning of the period of which information will be collected, notice of the commission's intention to require such cumulations as part of the annual report.

[Last updated: 2006]

#### **10.102.1156 EFFECTIVE DATE**

- (1) In order to give all public libraries time to meet these standards, ARM [10.102.1150A](#) through [10.102.1150M](#) will become effective on July 1, 2006.
- (2) The effective date for certification requirement of ARM [10.102.1150A](#) through [10.102.1150M](#) is July 1, 2007.

[Last updated: 2006]

#### **10.102.1157 ADDITIONAL RECOMMENDED LIBRARY STANDARDS**

- (1) The Montana State Library Commission has adopted additional public library standards that are not presented in these rules because they are not mandatory standards.
- (2) The commission strongly recommends that all public libraries follow as many of the recommended library standards as possible.

- (3) A complete set of voluntary public library standards has been sent to all public libraries in a document labeled: Montana Public Library Standards, August 1999.
- (4) Additionally, the full set of standards can be found on the state library's web page at: <http://msl.state.mt.us/admin/libstandards.htm>.

[Last updated: 2006]

## Public Library Grants

### 10.102.3604 ARBITRATION OF DISPUTES WITHIN FEDERATIONS

- (1)
  - (a) Any disagreement among participants in a library federation regarding the application for or apportionment or utilization of funds or grants received from the commission shall be referred in writing by any participating library or entity to the state librarian.
  - (b) The state librarian shall assign a member of the state library staff to investigate the disagreement and to prepare a staff report to the commission with a proposed decision.
  - (c) When the staff report and proposed decision are completed, copies shall be sent to the disputing participants in the federation and the matter placed on the agenda of the next commission meeting.
  - (d) The commission shall proceed to hear the parties and staff in accordance with the procedures set forth in ARM [10.101.206](#), and render a decision.

[Last updated: 2006]

## Interlibrary Loan Reimbursement

### 10.102.4001 REIMBURSEMENT TO LIBRARIES FOR INTERLIBRARY LOANS

- (1) Definitions used in this subchapter include:
  - (a) "Interlibrary loan" means the loaning or provision of copies of library materials from one Montana library to another Montana library. Such materials are to include, but are not limited to, the following: book, copy in lieu of book, magazine/periodical, copy in lieu of magazine/periodical, audiovisual title, government document/technical report, and pamphlets, some of which are to be returned.
  - (b) "Libraries eligible for interlibrary loan reimbursement" are defined in [22-1-328](#) (2), MCA.
  - (c) "Net loaning libraries" are those libraries whose interlibrary loans exceed their borrowing of library materials during the year for which they seek net loaning reimbursement, provided the libraries reported and requested reimbursement for the loans.
- (2) Reimbursements will be made on an annual basis based on the following:
  - (a) Reimbursement will be made at a rate determined by the State Library.
    - (i) This rate is based upon an estimated number of annual interlibrary loans (ILL) in Montana and available funds.
    - (ii) Available funds for ILL reimbursement will be divided evenly in half.
    - (iii) Every eligible library will be reimbursed from one-half these total available funds. These funds, shared between every eligible library, shall be called "simple loaning reimbursement".
    - (iv) Simple loaning reimbursement will be computed by dividing the total available funds in half, and distributing that half of the funds in proportional amounts to every library eligible for simple loaning reimbursement. The total amount of money available to the State Library for simple loaning reimbursement will be divided by the total number of loans reported to obtain the per-loan rate of reimbursement. The rate of reimbursement will then be applied to each simple loan to determine the amount of reimbursement for each library.
    - (v) Only net loaning libraries are eligible for reimbursement from the remaining half of the total available funds after simple loaning

reimbursement funds are distributed. These funds shall be called “net loaning reimbursement”.

- (vi) Net loaning reimbursement will be computed by dividing the total amount of money available to the State Library for net loaning reimbursement by the total number of net loans reported to obtain the per-loan rate of reimbursement. The rate of reimbursement will then be applied to each net loan to determine the amount of reimbursement for each library.
- (vii) These rates may be adjusted if deemed necessary by the State Library by dividing any remaining funds by the number of interlibrary loans claimed for reimbursement.
- (b) A form for requesting reimbursement will be issued by the State Library. No reimbursement shall be made to any library which does not use the reimbursement form to submit its reimbursement request, or which fails to meet specified submittal deadlines for such requests.
- (c) Each annual payment shall be made only for interlibrary loans within the specified year for which reimbursement funding is available. No count of interlibrary loan transactions shall be carried over from one year to another.
- (d) Reimbursements will be made within 30 working days after the submittal date.
- (e) No library may levy service charges, handling charges, or use fees for interlibrary loans for which it is reimbursed under the provisions of [22-1-325](#) through [22-1-331](#), MCA and these rules.
  - (i) Actual charges for postage are discouraged but not expressly prohibited under these rules.
  - (ii) Costs for special postal handling of interlibrary loan requests, when requested by the borrowing library, are chargeable costs.
  - (iii) Interlibrary loans, when completed via electronic submission, also count as reimbursable interlibrary loans. Costs associated with such electronic submission are chargeable if the transmission was specified by the requesting library. Electronic submissions qualify as special handling.
  - (iv) Per page photocopying charges may not be separately charged to the borrowing library but are assumed to be covered by the reimbursement under these rules.
- (f) Providers of interlibrary loan are expected to follow the law in relation to copyright.
- (g) Libraries applying for interlibrary loan reimbursement under [22-1-325](#) through [22-1-331](#), MCA and these rules must retain certain records as follows:
  - (i) The library requesting reimbursement shall retain records of interlibrary loans which support and agree with the number submitted for reimbursement.

These records must include both the number of items loaned to eligible libraries, and the number of items borrowed. Reimbursement requests will include library-by-library detail of items lent to, and borrowed from, as well as total items borrowed and lent.
  - (ii) Libraries requesting reimbursement shall retain their records of interlibrary loan transactions for a period of three years and must produce these records for auditing purposes.
- (h) For any questions arising because of this rule, the final arbiter is the State Library Commission.
- (3) For a library to receive reimbursement through the program, it must annually certify to the State Library that the appropriate member of its staff has demonstrated competence regarding the application of the standardized interlibrary loan protocols.

[Last updated: 2006]

#### **10.102.4003 DIRECT STATE AID TO PUBLIC LIBRARIES FOR PER CAPITA AND FOR PER SQUARE MILE SERVED**

- (1) Definitions used in this section include:
  - (a) “Public library” means those libraries as defined in [22-1-303](#) through [22-1-317](#), MCA, and in Title 7, MCA.



- (b) "Population" means those official, final figures from the most recent decennial census of population produced by the U.S. Bureau of the Census.
  - (c) "Leftover population" means the population count remaining in each county after the population counts of each municipality with library service are subtracted.
  - (d) "Additional population" means the population count which is to be credited to each public library based on the proportion of that municipality's population to the total population of the county.
  - (e) "Leftover square miles" means the number of square miles left in each county after the square miles of each municipality with public library service are subtracted from the total number of square miles in the county.
  - (f) "Additional square miles" means the number of square miles credited to each public library, based on the proportion of that municipality's population to the total population of the county.
- (2) The per capita portion of the direct state aid to public libraries will be distributed annually based on the following:
- (a) In counties which have county-wide library service from one public library, or in which only one municipal public library exists, the most recent decennial census figure will be multiplied by the amount of state aid available per capita in each year.
  - (b) In each county with more than one municipal public library, the following procedure will be employed:
    - (i) The population counts of all municipalities with public libraries are added together and subtracted from the total county population resulting in the leftover population figure.
    - (ii) Each year all monies received by these libraries from the county commission are added together; each year each library's total is divided by the total amount received by all the libraries to determine the percentage of money given to each library by the county.
    - (iii) The leftover population figure is multiplied by the percentage of money each library receives from the county in order to determine the additional population figure which will be credited to each library.
    - (iv) The municipal population and additional population figures are added together to determine the total population which will be credited to each library.
    - (v) For each library the total population credited to each library is multiplied by the amount of per capita state aid available in each year to determine the total per capita support.
    - (vi) In the case of counties in which no county aid is provided to municipal libraries, the additional population credited to each library is based solely on the ratio of each municipal library's service area population to the total county population.
    - (vii) In the case of counties in which only one of two or several municipal libraries receives county aid, the library receiving county aid is credited with the entire county population exclusive of the population present in the service area populations of any other municipal libraries.
    - (viii) The population counts of legally annexed areas, as determined by the latest decennial U.S. census, will be credited to the municipality annexing the area the year following the annexation.
- (3) The per square mile portion of the direct state aid to public libraries will be distributed annually based on the following:
- (a) In counties which have county-wide library service from one public library, or in which only one municipal public library exists, the total square miles of each county will be multiplied by the amount of state aid available per square mile in each year.
  - (b) In each county with more than one municipal public library, the following procedure will be employed:
    - (i) The number of square miles of all municipalities with public libraries are added together and subtracted from the total number of square miles in the county to determine the leftover square miles.

- (ii) The population counts of all municipalities with public libraries are added together, and each library's population is divided by the total county population to determine the percentage of the county population credited to each library.
  - (iii) The leftover square miles figure is multiplied by the percentage of the county population credited to each library in order to determine the additional square miles to be credited to each library.
  - (iv) Each municipality's square miles are added to their appropriate additional square miles to determine the total square miles credited to each library.
  - (v) For each library the total square miles credited to each library is multiplied by the amount of per square mile state aid available in each year to determine the total per capita support.
- (4) In the case of library districts which are not defined by municipal or county boundaries, but by boundaries such as school districts, both the per capita and the per square mile state aid will be distributed using the appropriate boundaries and population figures as if they were municipal or county boundaries and counts.
- (5) In each county which has no public libraries, the State Library will contact the county commission indicating that the county will qualify for per capita and per square mile state aid if the county commission establishes county-wide library service as provided for in state statute, or if the county commission contracts for library services with another county or municipal library as provided for in state statute. If such means are not established within a six-month period following written notice received from the State Library, the state aid which would have gone to the county will be allotted to the federation headquarters library in whose area this county is located for use in federation activities.
- (6) For any questions arising because of this rule, the final arbiter is the State Library commission.

[Last updated: 2006]

## **Federation Areas**

### **10.102.5101 DESCRIPTION OF FEDERATION AREAS AND HEADQUARTERS**

- (1) A list of federation areas and headquarters libraries is available without charge from the Montana state library.

[Last updated: 9/12/86]

### **10.102.5102 ALLOCATION OF FUNDING BETWEEN FEDERATIONS AND GRANT PROGRAMS**

- (1) At its first meeting following receipt by the library commission of the estimate of the appropriation to public library federations the commission shall allocate all funds received to library federations according to the following formulas:
  - (a) The portion of the appropriation allocated to library federations shall be distributed among the six federations according to the following formula: 50% of the first \$250,000 shall be divided equally among the six federations and 50% shall be allocated on the basis of population within the six federations.
  - (b) Any appropriation in excess of \$250,000 shall be divided according to the following formula: 20% of the remainder shall be allocated equally among the six federations. 80% of the remainder shall be allocated among the six federations on the basis of population.
- (2) The state library commission has the responsibility and authority to approve federation plans of service and to approve or deny funding for the components of the plans of service.
  - (a) A federation and individual member libraries of a federation may not receive a distribution of appropriated funds from the state library commission until the federation's annual plan of service for federation activities is approved by the commission.

- (b) Following approval of a federation's plan of service, the state library commission, through the state library, will distribute appropriated funds to libraries that are members of the federation according to the federation's approved plan of service.
- (c) The state library commission can disapprove a plan of service only because:
  - (i) it was not prepared according to the procedures and forms established by the state library commission; or
  - (ii) it does not address the authorized purposes and/or priorities as established by the state library commission to implement its state long range plan for libraries.
- (3) Each federation's annual plan of service shall be based upon direction given by the state library commission from its consideration of the state long range plan for libraries. The annual plan of service is submitted to the state library each April for consideration and action by the state library commission. Changes or appeals related to the plans of service are acted upon by the state library commission in May and June of each year.
- (4) Each federation member shall expend the federation funds according to the purposes stipulated in the federation's plan of service. Each member shall annually report how the funds were used for the stated purposes to the federation coordinator and a copy of the report will be provided to the state library commission. If the federation member does not use funds as set forth in the annual plan of service, the federation coordinator shall notify the state library commission within 30 days.
- (5) If a federation member does not use funds in accordance with the proposals set forth in the annual plan of service, then the member will be notified by the state library commission and the member shall return the funds to the state library commission within 60 days. The state library commission shall revert such funds to the appropriate state account.
- (6) Each federation shall ensure equal opportunity for representation of its member libraries and shall have approved bylaws that shall address approval procedures for the annual plan of service, proxy voting, quorum requirements and other procedural matters necessary for conducting federation business.
- (7) An appeals process shall be available for any federation that is denied funding or for any member library that is required to revert funds. This appeals process shall follow the appeals process for denial of a grant as set forth in ARM [10.101.206](#).

[Last updated: 2004]

## **10.102.5105 JOINING LIBRARY FEDERATIONS**

- (1) Libraries eligible to join federations include any public, school, special, college, or university library.
- (2) Each member of the federation shall designate one person to serve as a voting delegate to the federation. Delegates shall establish in the federation bylaws the size and the composition of the federation board of trustees.
  - (a) The majority of the board shall be public library trustees and the board shall have at least one representative from each type of library that participates in the federation;
  - (b) At the spring meeting, the federation delegates shall elect the board members according to federation advisory board bylaws.

[Last updated: 2000]

## **10.102.5106 BASE GRANTS**

- (1) The commission receives a legislative appropriation to fund the base grants. The total distribution per federation shall remain the same as in FY 1998 unless the legislative appropriation changes.
- (2) After receiving recommendations from the advisory board, the federation shall distribute the base grants in two ways:
  - (a) The federation may use the grants to fund federation projects that maintain or improve cooperative library services and activities; or
  - (b) The federation may also allocate base grants to public libraries to support the cooperative activities and services of the federation.
    - (i) The federation shall direct these grants to meet the following objectives:

- (A) to increase the amount and quality of unique library resources in the federation and state. Libraries may purchase library materials to accomplish goals established in the federation or state's collection development plan;
- (B) to increase the on-line availability of local bibliographical information. Libraries may purchase subscriptions to bibliographic databases such as lasercat and worldcat, add and maintain holdings in these databases, and purchase the necessary equipment and software;
- (C) to increase the visibility of libraries in the federation or state. Libraries may use base grants to promote or market libraries through a group project involving more than one library in the federation.
- (D) to increase the work-related knowledge, skills, and abilities of library staff and trustees. Libraries may use base grants to support education opportunities and to share this education with other federation members; or
- (E) to support other objectives that enhance the cooperative activities and services of the federation.

[Last updated: 2000]

## **Depository Procedures for State Documents**

### **10.102.8101 DEPOSITORY PROCEDURES FOR STATE DOCUMENTS**

- (1) Any Montana library to be designated as a full depository shall agree to the following conditions with the understanding that failure to comply with any one condition is sufficient ground for cancellation of the contract between the state and the library.
  - (a) Provide space to house the publications with adequate provision for expansion.
    - (i) State publications need not be maintained in a separate collection unless the receiving library prefers to do so.
    - (ii) Housing in a vertical file rather than on shelves is acceptable for appropriate pamphlet-type materials.
  - (b) Provide an orderly, systematic recording or receipt of the documents.
  - (c) Process and shelve all state publications within 30 days after receipt of the material.
  - (d) Provide a professionally trained librarian to render satisfactory service without charge to qualified patrons in the use of such publications.
    - (i) This librarian need not spend full time on state publications.
  - (e) Dispose of publications only with the permission of the state librarian.
  - (f) Accept and maintain all publications specified as "basic items".
- (2) Library rules must assure that the documents are available for the public use and circulation, unless for some unusual reason it becomes necessary to restrict use.

[Last updated: 1972]

### **10.102.8102 POLICIES AND GUIDELINES FOR DEPOSITORY LIBRARIES**

- (1) Depository libraries shall keep all state documents received from the state publications library distribution center of the Montana state library for a minimum of two years.
- (2) Publications that depository libraries do not wish to keep may be discarded only by the following procedure:
  - (a) Make a list annually of all documents that are to be discarded.
    - (i) The center will accept the list only once during the year.
    - (ii) Submit such lists to the state publications library distribution center.
    - (iii) The center will select publications for the needs of the Montana state library.
    - (iv) The lists will then be reproduced by the center and circulated to other depository libraries and other interested libraries in Montana wanting to acquire a copy or wanting additional or replacement copies.
- (3) The above outlined procedure will begin January 1, 1978.

- (a) Depository libraries will submit their list annually no later than January 15<sup>th</sup>.
  - (b) Documents may be discarded after March 31 if they have not been requested by a library.
  - (c) Discarded documents should not be mailed to the Montana state library unless depository libraries are requested to do so.
  - (d) State publications received by a depository library, other than as part of the depository program, need not be listed on the list of state documents to be discarded.
  - (e) Documents to be discarded may be stored; however, they must be stored in such manner as to be retrievable and accessible.
- (4) The documents librarian or other state library personnel will make an inspection of each depository library once yearly; depository status of each library will be reviewed at that time.
  - (5) For the purpose of preparing to implement the procedures of handling the list, it is recommended that each depository library stamp each state documents with date of receipt.
  - (6) Depository libraries shall open depository shipments upon receipt so as to become aware of contents of such shipments, even though they cannot be processed immediately.
  - (7) Depository libraries desiring publications listed on the "weekly shipping list", and insufficient copies were received by the center to make full distribution, may notify the center of their needs; every effort will be made to obtain a copy for the requesting library.
- (a) The depository library is not to contact the issuing agency directly.

**[Last updated: 1978]**

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